

December 20, 2021

Marty Walsh
Secretary
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Douglas Parker
Assistant Secretary
Occupational Safety and Health Administration
200 Constitution Ave NW
Washington, DC 20210

Dear Secretary Walsh and Assistant Secretary Parker:

On behalf of the nation's independent retail supermarkets, the wholesalers that service them, and the over one million American workers who are on the frontlines feeding and serving their communities, I am writing to relay major concerns from our industry given OSHA's decision to reinstate an aggressive compliance deadline for the COVID-19 Vaccination and Testing Emergency Temporary Standard (ETS).

Our nation's independent grocers are currently facing unprecedented staffing challenges amidst the Christmas holiday rush and consumer response to increasing COVID-19 case numbers. In a recent NGA survey, we found that the vast majority of respondents are experiencing staffing shortfalls. Some are operating as low as 50 percent of a normal workforce. At the same time, independent grocers are seeing increasing numbers of customers and sales volumes above the normal holiday rush. As COVID-19 cases increase upward, consumers are responding by pivoting away from food service and increasing grocery trips¹. This confluence of events is happening as the industry continues to respond to supply chain challenges. The same NGA survey found that our members are seeing sharply declining fill rates of products ordered. Every respondent reported lower service rates that ranged from 50 to 80 percent of total orders filled.

We fear an untenable situation should OSHA restore the vaccine and testing mandate on grocers at this time. Our members are reporting that many employees intend to quit if required to submit to vaccines or weekly tests. Even if employees opt for weekly testing, grocers are reporting they cannot currently procure enough tests to satisfy the number of employees that require testing. Simply put, we expect significant disruptions to the industry's ability to supply a hungry American public with needed food and consumer goods should the mandate go forward as planned. While the ETS is well-intentioned and increasing vaccination rates will be crucial to ending the pandemic, added pressure on the strained food supply chain and labor force could impede our vital role in the economy of keeping grocery shelves stocked for American consumers.

NGA members continue to support programs and policies that encourage workers to get vaccinated. We commit to redoubling these efforts as the Nation experiences increasing rates of infection and the emergence contagious new variants that threaten the public health. We stand as partners to the federal government in its effort to get the country vaccinated. However, we differ in our approach by favoring incentives rather than punitive mandates that threaten a fragile situation for our nation's food supply chain.

As the agency determines how to respond to the recent 6th Circuit Court of Appeals ruling that lifted the stay on enforcement of the ETS, we ask that you re-consider an exemption for the essential workforce in the food industry so we can keep hungry Americans fed without disruption. Absent an exemption, we urge the Administration to delay the mandate and partner with NGA and the food industry to increase vaccination rates through voluntary efforts. We would appreciate any opportunity to meet with you and OSHA leadership ahead of a decision to discuss these urgent concerns.

Sincerely,



Greg Ferrara
President & CEO
National Grocers Association

CC:

Jeff Zients
White House COVID-19 Response Coordinator
Executive Office of President
1600 Pennsylvania Ave. NW
Washington, D.C. 20500

¹ https://www.washingtonpost.com/business/2021/12/17/omicron-economy-coronavirus/?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosam&stream=top