



January 19, 2022

The Honorable Doug Parker
Assistant Secretary
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

RE: Emergency Temporary Standard on COVID-19 Vaccines and Testing - Docket No. OSHA-2021-0007

Dear Mr. Parker,

The National Roofing Contractors Association (NRCA) wishes to submit comments on the Occupational Safety and Health Administration's COVID-19 Vaccination and Testing: Emergency Temporary Standard (ETS) published at 86 Fed. Reg. 61402 (Nov. 5, 2021). If implemented, the ETS would require employers with 100 or more employees to ensure their employees are vaccinated or undergo weekly testing for COVID-19 for a six-month period beginning Nov. 5, 2021. The Supreme Court recently reimposed a temporary stay of a lower court ruling blocking implementation of the ETS pending further litigation, however until that litigation is resolved, the ETS serves as a proposed rule for a potential permanent standard that could become effective at end of the six-month period. These comments address ETS as proposed as a potential permanent standard.

Established in 1886, NRCA is one of the nation's oldest trade associations and the voice of roofing professionals worldwide. NRCA's nearly 4,000 member companies represent all segments of the industry, including contractors, manufacturers, distributors, consultants and other employers in all 50 states and internationally. The U.S. roofing industry is an essential \$100 billion sector with nearly 1 million employees that provides critical materials and services to ensure home and business safety.

As part of our longstanding commitment to health and safety, NRCA has supported numerous efforts to promote the adoption of COVID-19 vaccines on a voluntary basis within the roofing industry to protect individuals and help end the pandemic. NRCA has throughout the course of the pandemic provided member companies with information and resources to help ensure their employees are protected from exposure to COVID-19 within the workplace. For example, we have held numerous webinars, hosted an industry-wide townhall meeting that attracted thousands of our members and created a robust section of our website dedicated to maximizing strategies to

protect against COVID-19. NRCA will continue to provide our members with updated information and recommendations as necessary to protect the health and safety of our members and their employees.

Roofing work is performed in an outdoor setting and thus has been formally classified by OSHA as low-risk with respect to COVID-19. In fact, the agency considered the inclusion of the construction industry in a previous ETS for COVID-19 safety protocols in early 2021, but after careful consideration agreed with NRCA and other construction associations that it was not appropriate for the industry to be included within the scope of that ETS. Given this determination, it is NRCA's view that roofing work does not constitute a "grave danger" to employees, the statutory threshold that must be reached in order for an ETS to be applicable, and thus the roofing industry should not be subject to the ETS for vaccines and testing. NRCA does appreciate OSHA's partial recognition of the low-risk nature of roofing work by the inclusion of an exemption for work that is performed exclusively outdoors.

NRCA members are extremely concerned that implementation of the ETS will greatly exacerbate existing workforce shortages that have already become widespread within the roofing industry. Chronic workforce shortages arising from demographic trends have been a growing problem in our industry for many years despite the well-paying, family sustaining careers provided by NRCA members. This problem has become even more pronounced during the COVID-19 pandemic and is the top challenge facing roofing industry employers today. OSHA should carefully consider workforce-related impacts even when considering emergency standards. Additionally, the adverse workforce impacts resulting from the ETS throughout the economy would also likely worsen the already acute supply chain issues that continue to plague our industry and the entire U.S. economy.

NRCA believes that cumbersome federal mandates on private sector employers are likely to be ineffective and even counterproductive in protecting employees from the spread of COVID-19 within the workplace. Moreover, as indicated in the Supreme Court's recent decision to issue a temporary stay of the ETS pending further litigation, it is highly questionable whether the Occupational Safety and Health Act provides the authority to issue such a sweeping policy on an emergency basis with very little opportunity for public input.

NRCA believes a permanent standard beyond the six-month ETS time period should also not be applied to the roofing industry given the low-risk nature of roofing work, as discussed above. We believe that continuing to work with our members to encourage vaccination and other COVID-19 prevention strategies on a voluntary basis without the time and expenses needed to comply with federal mandates is a more effective strategy for combatting COVID-19 in roofing workplaces. However, should OSHA move forward with a permanent standard that does apply to the roofing industry, the exemption for outdoor work should certainly be maintained. NRCA is also concerned that the agency is considering expanding the rules established by the ETS, currently limited to employers with 100 or more employees, to smaller employers in any permanent standard that might be established. This would only compound the adverse and unnecessary impacts of the ETS and therefore should not be pursued by OSHA.

Given these serious concerns outlined above, NRCA urges agency officials to abandon the ETS and any permanent standard and instead work with NRCA and other stakeholders in the regulated community to maximize protection against COVID-19 in more effective ways. Thank you for your consideration of NRCA's views on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Reid Ribble". The signature is written in a cursive, flowing style.

Reid Ribble
Chief Executive Officer