



November 12, 2021

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## **NACS Sues OSHA to Block Vaccine Mandate**

*From NACS*

This week NACS joined with a number of state and national trade associations in suing the U.S. Occupational Safety and Health Administration over its COVID-19 vaccination and testing emergency temporary standard for employers with 100 or more employees. The lawsuit was filed today in the U.S. Court of Appeals for the Fifth Circuit.

The convenience and fuel retailing industry employs about 2.5 million people in the U.S.—from store clerks to truck drivers—and generated \$5.482 billion in sales in 2020. The industry sells about 80% of the fuels purchased in the U.S. “Our industry is facing a labor shortage and supply chain disruptions,” said Lyle Beckwith, NACS senior vice president, government relations. “The OSHA rule will make all of this worse, and everyday Americans will take the brunt of the problems it creates.”

NACS members, Beckwith notes in a declaration to the court, “generally support their employees becoming vaccinated” and have offered incentives and paid time off for vaccinations. “NACS members have a strong incentive to encourage a vaccinated workforce and they do so.” Still, some NACS “members expect that they will have many employees quit their jobs rather than receiving vaccinations against their will,” the petition states.

As the convenience and fuel retailing industry continues to face challenges in not only hiring and retaining the essential workers needed to keep their doors open, the industry also is contending with severe supply chain constraints due in large part to a shortage of labor at trucking, logistics and supplier companies. If the OSHA rule takes effect, a significant number of employees will refuse both vaccination and weekly testing. So, the rule will not significantly advance public health but will hurt the industry and its ability to serve American consumers. The petition notes that test kits in some areas aren’t readily and dependably available, and the costs of complying with OSHA’s mandate will be significant in both dollars and time. “OSHA’s estimated costs for these measures are simply not realistic,” NACS states.

View the following related documents in the case:

- [NACS Declaration](#)
  - [Exhibits](#)
  - [Motion for Stay](#)
  - [Letters](#)
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## Code Development Cycle

Here you will find an announcement from the Virginia Department of Housing and Community Development announcing a new code development cycle that begins after the first of the year. This deliberative process is important to the membership as it develops and offers amendments to the fire and building codes. Included in past subgroups has been electrification and modification of the state fire code to allow mobile fueling. Additional information on how to participate in this process may be found here. Its also worthy noting that the Department says it will not entertain changes submitted later than June 1, 2022. Readers will remember the 11<sup>th</sup> hour attempt by Booster Fuels to amend the fire code and allow mobile fueling last year.