



September 27, 2021

The Honorable Marty Walsh
Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Mr. James Frederick Secretary Acting Assistant Secretary for
Occupational Safety and Health
Occupational Safety and Health Administration
200 Constitution Ave., NW
Washington, DC 20210

Dear Secretary Walsh and Acting Assistant Secretary Frederick,

On behalf of the National Ready Mixed Concrete Association (NRMCA or the Association), I am writing regarding President Biden's recent directive to the Department of Labor (DOL) and the Occupational Safety and Health Administration (OSHA) to implement an Emergency Temporary Standard (ETS) mandating employers with 100 or more employees, vaccinate their workforce against COVID-19 or be subjected to weekly testing.

NRMCA was founded on December 26, 1930, and today represents the ready mixed concrete industry (Industry) with more than 2,250 companies and subsidiaries that employ more than 135,000 American workers who manufacture and deliver ready mixed concrete. The Association represents local, national, and multinational companies that operate in every congressional district in the United States. The Industry includes more than 6,500 ready mixed concrete plants, and more than 75,000 ready mixed concrete trucks. Roughly 85% of all US ready mixed concrete companies are small businesses.

The ready mixed concrete industry manufactures a construction material vital for constructing our built environment. From roads and bridges to homes and high-rises, our built environment could not be realized without the use of ready mixed concrete. This critical building material is created by combining fine and coarse aggregates, cement, and water. In 2020 alone, the industry is estimated to have produced over 377 million cubic yards of ready mixed concrete. Virtually every construction project in America uses at least some ready mixed concrete.

Since the inception of the COVID-19 pandemic, and even before, the ready mixed concrete industry was recognized as essential. Critical to our infrastructure, the Industry has worked quickly, diligently, and respectfully to safeguard the health and wellbeing of our workforce and continues to do so today. To achieve this the industry has worked tirelessly to maintain compliance with the numerous local, state, and federal guidelines and regulations; from COVID-19 processes and procedures, to masking, social distancing, and adhering to lockdowns. The industry as well, has been a strong advocate for, and continues to openly encourage, getting COVID-19 vaccinations for employees throughout the industry.

However, the Industry holds very serious concerns regarding mandating COVID-19 vaccinations of our workforce. The Industry is concerned about the lack of current ETS specifics needed for preparation and implementation, the inability for stakeholders to provide comment, and an overall lack of clarity for justification of an ETS. We are most concerned about how such a requirement will impact our workforce,



that predominantly operates outdoors, but namely our ready mixed concrete mixer truck drivers that we are dependent on to deliver ready mixed concrete to the point of placement. As you may know, there is currently a persistent shortage of commercial motor vehicle drivers, including concrete mixer truck drivers. The Industry regularly struggles just to keep pace with the construction market and ongoing projects we already serve given the limited driver pool. While the Industry is mainly concerned with drivers of ready mixed concrete trucks, we also worry about the impacts on aggregate haul truck drivers, cement tanker drivers, and others that we rely on who serve our Industry. Any forced mandate for drivers, regardless of company size, that may force drivers to resign would create a colossal and wide-spread problem. There simply are not enough drivers to replace any drivers that resign due to a vaccine mandate. This realization would have dire effects for the economic impact these drivers and their companies command, not to mention their impact on any infrastructure package that Congress ultimately approves.

Many in our Industry are currently attempting to determine what would be required for maintaining current business operations and construction projects should the Industry observe a driver exodus. The Industry is very much hopeful this potential event will not be realized. Should DOL and OSHA finalize and implement an ETS, given the nature of ready mixed concrete drivers, and the lack of them, we are expectant that our Industry's drivers will fall into a category that covers remote or physically isolated employees, and thus not subject to the vaccine and testing mandate. Ready mixed concrete truck drivers drive, operate, and work alone, in enclosed truck cabs. They spend the majority of their time either alone in the truck cab or distanced from others while outdoors. Drivers in our Industry are regularly operating in individual capacities, and when returning to their ready mixed concrete plants, are then subject to a bevy of COVID-19 procedures and protections to maintain their wellbeing, and that of the other ready mixed concrete plant employees.

NRMCA and the ready mixed concrete industry are committed to doing our part to help bring about the end to this unprecedented and unfortunate state of affairs. As recognized critical essential infrastructure that will be dramatically impacted by an ETS, we caution DOL and OSHA not to implement a regulatory scheme that would only serve to exacerbate the country's COVID-19 pandemic. We encourage DOL and OSHA to temper the reach of the ETS so as to not adversely impact the ready mixed concrete industry's workforce. We look forward to working with the agencies on any impending, common sense COVID-19 Emergency Temporary Standard.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Philipps", with a horizontal line extending to the right.

Michael Philipps
NRMCA President