



March 11, 2021

The Honorable Alma Adams  
Chair  
Subcommittee on Workforce Protections  
2176 Rayburn House Office Building  
Washington, DC 20515

The Honorable Fred Keller  
Ranking Member  
Subcommittee on Workforce Protections  
2101 Rayburn House Office Building  
Washington, DC 20515

The Honorable Bobby Scott  
Chair  
Committee on Education and Labor  
2176 Rayburn House Office Building  
Washington, DC 20515

The Honorable Virginia Foxx  
Ranking Member  
Committee on Education and Labor  
2101 Rayburn House Office Building  
Washington, DC 20515

Dear Chair Adams, Ranking Member Keller, Chair Scott, and Ranking Member Foxx:

On behalf of the National Retail Federation (NRF), thank you for convening today's hearing regarding COVID-19 and its impact on the American workforce. We write to share retailers' experiences responding to and mitigating the spread of COVID-19 within their workplaces and explain why an emergency regulation would be counter to our shared objective of keeping our nation's workforce safe. We recommend that the Occupational Safety and Health Administration (OSHA) continue to issue robust industry-specific guidance on how employers can best implement Centers for Disease Control and Prevention (CDC) guidance.

NRF is the world's largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants and internet retailers from the United States and more than 45 countries. Retail is the nation's largest private-sector employer, supporting one in four U.S. jobs — 52 million working Americans. Contributing \$3.9 trillion to annual GDP, retail is a daily barometer for the nation's economy.

Over the past year, retailers have taken extraordinary and unprecedented efforts to mitigate the spread of the virus. Last spring, many retailers voluntarily closed their doors to assess operations due to the emerging pandemic. They successfully reopened after implementing social distancing rules, one-way arrows, and floor markings and mandating protective gear such as face coverings. The NRF was the first business group to call for and require the use of face

coverings by associates and customers. Our members have increased tempo of store cleanings and upgraded cleanings to higher sanitation standards. Retail employees nationwide have been trained to practice COVID-19 hygiene and unfortunately been called upon to enforce state and local face mask mandates and other policies. Retailers have upgraded on-site infrastructure by installing pre-shift health screening stations and plexiglass shields at check-out counters. Combined, our industry has invested tens of billions of dollars in these mitigation and safety measures.

NRF and our members have worked and will continue to work extensively with the CDC, the National Institute of Occupational Safety and Health (NIOSH), OSHA, state and local health agencies, and our own safety and health experts to learn as much as we can about the virus and how to stop its spread. We have repeatedly adapted as scientific experts' knowledge about the nature of COVID-19 has evolved. These measures described above, especially when combined with widely available COVID-19 testing, increased vaccinations, expanded immunity, and effective communication from federal leadership, permit U.S. retailers to keep their workers safe.

Retailers are concerned about the possibility of OSHA issuing a rigid, one-size-fits-all emergency regulation, particularly during a global pandemic that has already imposed substantial economic hardship.

First and foremost, the pandemic has been an unpleasant reality for one year. As such, the imperative for OSHA to declare an "emergency" and issue a standard has long passed.

Moreover, an emergency regulation may actually impede retailers' ability to quickly adjust to the still evolving understanding of hazards and appropriate mitigation associated with COVID-19. Science is uncovering more about the virus every day, and researchers' constantly shifting understanding of the virus, its mutations, and methods of spread means that any emergency OSHA standard would only freeze in time one set of mitigation protocols, when those protocols may subsequently need to change.

Moreover, as OSHA considers issuance of a standard, the agency should consider the unique nature of this hazard. By design, OSHA regulates hazards created by the nature of the workplace; COVID-19, however, enters the workplace from the outside and is not endemic to the workplace. In fact, there is scant evidence that employers generally, or retailers specifically, are the source of community spread of COVID-19. Employees face the hazard of COVID-19, not because they are employees, but because they are human beings living on this planet. The threat exists wherever they are, not just the few hours per day they are in their employer's facility. While OSHA rightfully expects employers to institute protocols to keep employees safe while they are at work, the agency should be wary of imposing inflexible and costly burdens on employers when there is ample evidence that the specific hazards are not work-related.

For these reasons and others, the imposition of a one-sized fits all standard – especially one promulgated without the benefit of the normal notice and comment process – could hinder, not accelerate, employers' efforts to protect their employees from the dangers of the COVID-19

National Retail Federation

March 11, 2021

Page | 3

virus. In lieu of issuing an emergency standard, we recommend OSHA continue to issue robust industry-specific guidance on how employers can best implement CDC guidance.

In closing, American retailers have prioritized and will continue to prioritize the health and safety of our employees and our customers. We appreciate the Committee's focus on this issue and look forward to working together to ensure the safety of workers nationwide.

Sincerely,

A handwritten signature in black ink, appearing to read "David French". The signature is stylized with a large, sweeping initial "D" and a cursive "F".

David French  
Senior Vice President  
Government Relations