

TO: NAW Direct Members

FR: NAW Government Relations Team

RE: NAW COVID/Government Relations Update 2021-1 – January 7 at 2:45 PM

The National Association of Wholesaler-Distributors (NAW) today released a statement congratulating President-elect Biden after today's counting of electors' votes and urging unity following the riots at the United States Capitol. To read the full statement from Eric Hoplin, NAW President and CEO, click [HERE](#).

1. Latest on the COVID-19 Vaccine Distribution

There is obviously great concern about how the vaccine is being distributed, specifically how "essential services" are being defined and determined in the vaccine distribution process. Unfortunately, there are no clear answers at the Federal level because the Federal agencies have deferred the distribution to states and localities, providing the local governments only general guidelines.

There are some resources being provided by Federal agencies that you might find useful:

- Cybersecurity and Infrastructure Security Agency (CISA) has issued a memorandum reaffirming that essential services will be considered in the determination of vaccine distribution, and re-issuing their August 2020 list of those services:
[Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response \(cisa.gov\)](#)
- CISA also has essential services resources available on-line:
[Critical Infrastructure Sectors | CISA](#)
- Health and Human Services/Department of Defense issued a report entitled "The Operation Warp Speed Strategy for Distributing a COVID-19 Vaccine."
[From the Factory to the Frontlines \(hhs.gov\)](#)
- The CDC has released a PowerPoint presentation describing the process they have followed in determining guidelines to states and localities:

<https://www.cdc.gov/vaccines/acip/meetings/downloads/slides-2020-12/slides-12-20/02-COVID-Dooling.pdf>

- Also, in late October CDC released a lengthy (75-page) “COVID-19 Vaccination Program Interim Playbook for Jurisdiction Operations” [COVID-19-Vaccination-Program-Interim_Playbook.pdf \(cdc.gov\)](#)

Whatever guidance as to essential services the Federal government provides – and CISA’s reference back to its August listing (see link above) would SEEM to include much of the distribution industry, as it did last spring – they have made it very clear that interpretation of those critical/essential services is left entirely to the states. The CDC “Vaccination Program Interim Playbook” – on page 15 – states:

Critical infrastructure workforce ... Healthcare personnel (i.e., paid and unpaid personnel working in healthcare settings, which may include vaccinators, pharmacy staff, ancillary staff, school nurses, and EMS personnel) ... Other essential workers (see additional guidance from the Cybersecurity and Infrastructure Security Agency [CISA])

Note: The critical infrastructure workforce varies by jurisdiction. Each jurisdiction must decide which groups to focus on when vaccine supply is limited by determining key sectors that may be within their populations (e.g., port-related workers in coastal jurisdictions)

Given that the states will be handling distribution, we hope that you find these resources useful:

- First, here is a list that provides a link to each of the websites of the state agencies administering the distribution process, and an email address for the contact person at each agency:
<https://www.naw.org/wp-content/uploads/2021/01/State-Heath-Dept-Sites-Contacts.pdf>
- And on Tuesday, the *Little Law Firm* released a report on each state’s vaccination distribution plans:
<https://www.littler.com/publication-press/publication/giving-it-our-best-shot-statewide-vaccination-plans>

We will of course continue to monitor this, especially in terms of essential services, and will continue to provide you with resources as we find them.

2. Latest on the Paycheck Protection Program and Deductibility for Businesses

Late yesterday (of COURSE it was late on the day of their deadline for publishing regs) the SBA released new Interim Final Rules (IFR) for the PPP program and a loan application form.

While the primary IFR is lengthy, it is a consolidation of all their previous IFRs so there is not much new material in it other than specifics for newly-eligible 501(c)(6) organizations. [Jan 2021 SBA PPP IFR](#)

They also issued an IFR for “second draw” PPP borrowers:
[PPP -- IFR -- Second Draw Loans](#)

They also released a loan application form, but since it does not add 501(c)(6)'s to the list of eligible borrowers on the form, it is likely the same form as previously used.

Also, the Treasury Department and the Internal Revenue Service issued guidance yesterday allowing deductions for the payments of eligible expenses when such payments would result in the forgiveness of a loan under the Paycheck Protection Program (PPP). Yesterday's guidance reflects changes to law contained in the COVID-related Tax Relief Act of 2020, enacted as part of the Consolidated Appropriations Act of 2021, which was signed into law on December 27, 2020.

To read more from Bloomberg and to read the IRS guidance, click [HERE](#).

3. Latest on the Economic Recovery and Re-Opening the Workplace

As the Coronavirus Pandemic continues to impact the United States economy and businesses across the nation, it can be hard to decipher how new regulations and laws may impact your business. To help you manage these issues NAW is providing information about reports, webinars, and seminars that you may find useful:

[Register for NAW Digital Summit: "Leading in a Time of Transition," Jan. 27-28](#)

After constant virtual conference calls in 2020, "Zoom fatigue" is real. That's why we've designed a highly interactive virtual event that will capture your attention from start to finish. Every moment of the [NAW 2021 Digital Summit](#) will be aimed at helping you lead

through a time of transition. Hear from some of distribution's leading CEOs, network with your peers and discuss critical issues, get the 2021-22 economic forecast, and learn what the Biden agenda will mean for distribution, plus much more. Special 5- and 10-pack registrations are available so bring your team!

[Register for free NAW Webinar, Jan. 21: Strategic Change During Disruption](#)

In this capstone webinar for the NAW Series: How Technology Will Transform Wholesale Distribution, Ian Heller and Jonathan Bein will summarize what they learned from the research conducted with distributors, suppliers, and customers. They'll provide a roadmap forward: a specific set of recommendations on the strategic actions that the distribution industry -- and individual companies -- should take to fend off competitors, outflank the disruptors and prepare to take market share and improve profitability.

[Register](#) for this free Jan. 21 webinar at 2 p.m. Eastern.

From Reed Smith Law Firm:

Pandemic or not, employers must still comply with notice-posting requirements under federal law

Federal law, as well as many state and local laws, require employers to display notices and posters in the workplace advising employees of their rights. With many employers operating remotely due to COVID-19, however, questions regarding these statutory posting requirements have arisen. In response, on December 29, 2020, the United States Department of Labor released ... [Continue Reading](#)

From Littler Law Firm:

[Bouncing Back \(and Forth\): Statewide Reopening and Mitigation Steps](#)

As the pandemic unfolds, government officials are reevaluating their health and safety protocols and adjusting workplace guidance. This post provides links to key reopening orders and/or mitigation measures issued in recent weeks, at the statewide level.

To read more, click [HERE](#).

Webinar from Littler Law Firm:

Wednesday, January 13, 2021 | 10:00 am-11:15 am PST

The legal landscape involving vaccination programs in the employment setting has evolved over the years, particularly in health care, which may provide a "road map" in

addressing many of the issues dealing with the COVID-19 vaccine. There are, however, many unique and evolving issues tied to the COVID-19 vaccine.

Topics covered during this webinar will include:

- An update on priorities for distribution of the vaccine and the manner in which such decisions will be made;
- A review of the legal issues that need to be addressed in any vaccination program developed by employers;
- Benefits-related issues, including encouraging vaccinations as part of an employer's wellness program;
- Wage and hour issues, such as vaccine costs, compensable time, and the treatment of monetary incentives;
- Employee safety, workers' compensation, and privacy-related issues; and
- Implementation of vaccination programs in a unionized setting, as well as the potential impact of the anti-vaccination movement and any "concerted protected activity."

To register, click [HERE](#).

Stateside Associates publishes a daily report about State and Local Government responses to the evolving situation. To read their latest report, click [HERE](#).

We are also providing a link to a spreadsheet that includes state and local COVID-19 response information provided by **MultiState Associates**. To view their spreadsheet, click [HERE](#).

4. Latest on the Issues Unrelated to COVID-19

NAW Files Amicus Brief to the National Labor Relations Board

Last week, NAW, through the Coalition for a Democratic Workplace, was a signatory on an Amicus Brief to the National Labor Relations Board (NLRB) on bannerng used in many labor disputes. The NLRB asked whether the board should expand what non-picketing conduct is considered illegal, as well as if potential violations of the National Labor Relations Act might infringe on the First Amendment. You can read the Amicus Brief [HERE](#).

NAW Files Comments to Ensure all Wholesalers Have Fair Access to Banking Services

On Monday, NAW filed regulatory comments to the U.S. Department of Treasury's Office of the Comptroller of the Currency (OCC) in response to a proposed rule that would ensure fair access to banking services provided by large national banks. The rule codifies that banks should provide access to capital and credit based on the risk assessment of individual customers, rather than broad based social reasons.

The rule is in response to some banks refusing services to legal businesses citing reputational harm. NAW members carry products and service customers across all sectors which is why NAW commented based on the potential slippery slope that could occur should banks be allowed to refuse service to legal businesses. You can read NAW's comments [HERE](#).

[Click here](#) for links to *UPDATES* sent previously.

Many thanks—

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National Association of Wholesaler-Distributors*

**NAW 2021 DIGITAL SUMMIT: LEADING IN A TIME OF TRANSITION
JANUARY 27 & 28 REGISTER: www.naw.org/ds21**

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