COMMONWEALTH of VIRGINIA

DEPARTMENT OF LABOR AND INDUSTRY

C. Ray Davenport
COMMISSIONER

Main Street Centre
600 East Main Street, Suite 207
Richmond, Virginia 23219
PHONE (804) 371-2327
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DRAFT AGENDA

IN PERSON AND VIRTUAL
SAFETY AND HEALTH CODES BOARD EMERGENCY MEETING

In person location:
Patrick Henry Building
1111 E. Broad Street
East Reading Room
Richmond, VA 23219

Virtual Access:
******Refer to the Second and Third Page of Agenda for Instructions on Registering to Make Public Comment and Meeting Access Information******

August 26, 2021
10:00 AM

1. **Call to Order**

2. **Approval of Agenda**

3. **Opportunity for the Public to Address the Board on the issues pending before the Board today, as well as any other topics that may be of concern to the Board and within its scope of authority.**

   This will be the only opportunity for public comment at this meeting. Remarks will be limited to 5 minutes in consideration of others wishing to address the Board.

4. **New Business**

   a) Recommended Revisions to the Proposed Amendments of the VOSH Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220.
   Presenter – *Jay Withrow*

   b) *(If requested by the Board)* Closed Meeting for the Purpose of Consultation with Legal Counsel Regarding Specific Legal Matters Pursuant to § 2.2-3711.A.8 of the Code of Virginia

5. **Items of Interest from the Department of Labor and Industry**

6. **Items of Interest from Members of the Board**

7. **Meeting Adjournment**

PUBLIC PARTICIPATION

This meeting will be held both ***in person*** **and** ***virtually***.

Members of the public may attend in person or listen to/witness the meeting via the Cisco WebEx platform by using the weblink, access code, and password below, or audio conference only by using the telephone numbers and access code below. Electronic participation capacity is limited and is on a first come, first serve basis due to the capacity of CISCO WebEx technology.

Agency staff will be following the latest CDC guidance dated July 27, 2021 for the in person location. As such, if you plan to attend this hearing in person, please be aware this is a **required face covering** and **physically distanced** public meeting. The room will be subject to an occupancy limit of 25 people. Entrance will be on a first come, first serve basis.

If you are attending in person, please be aware that to enter the Patrick Henry Building, members of the public will have to go through security. **You must have a valid state or federal I.D. to enter the building.** Please be prepared to go through a security scanner and/or be wanded by the Capitol Police. Once you have passed through security, you will be required to sign in with Agency staff and you will be escorted to the East Reading Room. Upon departure, you will be required to sign out with Agency Staff.

For more information on what to expect at Security, including which entrance of the Patrick Henry building you must enter, please see: https://dgs.virginia.gov/facilities-management/dgs-facilities-information/expect-the-check/.

Parking is limited. For information on parking garages in the area, please visit: https://dgs.virginia.gov/parking--building-access/parking-services/visitor-parking-deck/.

If you wish to make an Oral Public Comment either, in person or virtually, during the "Opportunity for the Public to Address the Board" period of this meeting, you must follow the instructions below:

- Oral public comments will be received from those persons who have submitted an email to **Princy.Doss@doli.virginia.gov** no later than **12:00 PM (NOON)** on **August 25, 2021.** indicating that they wish to offer **either in person or electronic oral comments**. Comments may be offered by these individuals when their name is announced by Ms. Doss. Oral comments will be **restricted to 5 minutes** each.
- **For oral comments received electronically:**
    - When logging onto WebEx each person **must provide their full name** during the registration process upon entering the meeting. Do not use the default username as it is imperative that the meeting organizer be able to determine who is in attendance based on their registration name. Failure to follow these

specific registration instructions will restrict your ability to participate with oral remarks.

- If you wish to make an oral comment and will be utilizing the "audio conference only" option to witness the hearing, ***you must provide the phone number you will be calling in from in your email to Ms. Doss*** so that the administrator will know whom to unmute at the appropriate time.
- Other important information:
  - All parties will be muted until Ms. Doss announces the name of the person who is next to provide an oral comment.
  - All public participation connections will be muted following the public comment periods.
  - Please login from a location without background noise.

Individuals who offer both in person and virtual comments during the Safety and Health Codes Board Meeting on August 26, 2021 are encouraged to submit a written version of any comments by email to **Princy.Doss@doli.virginia.gov** no later than **5:00 PM** on **August 27, 2021.**

VIRTUAL ACCESS INFORMATION

Event address for attendee:
https://covaconf.webex.com/covaconf/onstage/g.php?MTID=e48fec552a7ef9266052d624eae9bfb60

Event number (access code): 161 720 9332

Event password: DOLI2021

To join the audio conference only:

Call this number: 1-517-466-2023 **or US Toll Free** 1-866-692-4530
Enter this Access Code: 161 720 9332

Should any interruption of the electronic broadcast of this meeting occur, please call 804-371-2318 or email **Brian.Jaffe@doli.virginia.gov** to notify the agency. Any interruption in the broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

FOIA Council Electronic Meetings Public Comment form for submitting feedback on this electronic meeting may be accessed at:
http://foiacouncil.dls.virginia.gov/sample%20letters/welcome.htm

COMMONWEALTH of VIRGINIA

DEPARTMENT OF LABOR AND INDUSTRY

C. Ray Davenport
COMMISSIONER

Main Street Centre
600 East Main Street, Suite 207
Richmond, Virginia 23219

August 19, 2021

SUBJECT: Proposed Amendments to the VOSH Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19, 16VAC25-220, as Adopted by the Virginia Safety and Health Codes Board (Board) on June 29, 2021

Recommended Revisions to the Proposed Amendments, August 19, 2021

NOTE: For proposed amendments adopted by the Board, new language is underlined and removed language is struck through.

The Department of Labor and Industry (DOLI) has consulted with the Virginia Department of Health (VDH) about whether REVISIONS should be recommended to the Board's Proposed Amendments to the FPS originally adopted on June 29, 2021, in response to the CDC's updated guidance for fully vaccinated people issued on July 27, 2021 (requirement in certain situations for fully vaccinated employees to wear face coverings in areas of substantial or high transmission).
https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

DOLI and VDH are in agreement that some REVISIONS should be recommended to the Board along with the Governor's amendment to 16VAC25-220-10.E.(https://www.doli.virginia.gov/wp-content/uploads/2021/07/Summary-of-Governor-Northams-Review-of-Proposed-Amendments-to-16VAC25-220-7.1.2021.pdf).

The attached document lays out the recommended changes from DOLI and VDH and are highlighted in yellow, (please note there were a few other relatively minor changes and some non-substantive error corrections as well). The Governor's amendment is located on page 6. The other revisions can be found on pages 3-5, 8, 10-12, 14-15, 19-22, 24, 26-27, 29-40, 42-43, 45-48, 50, 55, 59-61, 67-68, 71-73.

AUGUST 19, 2021

DRAFT REVISIONS TO PROPOSED AMENDMENTS

HIGHLIGHTED IN YELLOW

Recommended Revisions to the Proposed Amendments to VOSH Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19

As Adopted by the

Virginia Safety and Health Codes Board

on June 29, 2021

DEPARTMENT OF LABOR AND INDUSTRY

VIRGINIA OCCUPATIONAL SAFETY AND HEALTH (VOSH) PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY (DOLI)

Effective Date: To be Determined

16VAC25-220

Chapter 220. Standard for Infectious Disease Prevention of the SARS-Co-V-2 Virus that Causes COVID-19

16VAC25-220-10. Purpose, scope, and applicability.

A. This standard is designed to establish requirements for employers to control, prevent, and mitigate the spread of SARS-CoV-2, the virus that causes coronavirus disease 2019 (COVID-19) to and among employees and employers.

B. This standard is adopted in accordance with subdivision 6 a of § 40.1-22 of the Code of Virginia and shall apply to every employer, employee, and place of employment in the Commonwealth of Virginia within the jurisdiction of the VOSH program as described in 16VAC25-60-20 and 16VAC25-60-30.

1. Should the federal COVID-19 Emergency Temporary Standard, 29 CFR § 1910.502, et seq., applicable to settings where any employee provides health care services or health care support services, be adopted by the Virginia Safety and Health Codes Board and take effect, application of ~~Virginia's 16VAC25-220~~ this chapter, except for 16VAC25-220-40 B 7 d and B 7 e, and 16VAC25-220-90, to such covered employers and employees subject to the standard shall be suspended while the federal COVID-19 Emergency Temporary Standard remains in effect.

2. Should the federal COVID-19 Emergency Temporary Standard, 29 CFR § 1910.502 et seq., applicable to settings where any employee provides health care services or health care support services, be adopted by the Virginia Safety and Health Codes Board but later be stayed or invalidated by a state or federal court, the provisions of ~~Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-Co-V-2 Virus That Causes COVID-19~~ this chapter, including 16VAC25-220-50, shall immediately

apply to such employers and employees in its place with no further action of the board required.

3. Should the federal COVID-19 Emergency Temporary Standard, 29 CFR § 1910.502 et seq., applicable to all settings where any employee provides health care services or health care support services, be adopted by the Virginia Safety and Health Codes Board but later be stayed by federal OSHA, or otherwise revoked, repealed, declared unenforceable, or permitted to expire, the provisions of ~~Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19~~ this chapter, including 16VAC25-220-50, shall immediately apply to such employers and employees in its place with no further action of the board required. In addition, the Virginia Safety and Health Codes Board shall within 30 days notice a regular, special, or emergency meeting, conduct a regular, special, or emergency meeting to determine whether there is a continued need for ~~Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19~~ this chapter, or whether it should be maintained, modified, or revoked.

C. This ~~standard~~ chapter is designed to supplement and enhance existing VOSH laws, rules, regulations, and standards applicable directly or indirectly to SARS-CoV-2 virus or COVID-19 disease-related hazards such as, but not limited to, those dealing with personal protective equipment, respiratory protective equipment, sanitation, access to employee exposure and medical records, occupational exposure to hazardous chemicals in laboratories, hazard communication, subsection A of § 40.1-51.1 ~~A~~ of the Code of Virginia, etc. Should this standard conflict with an existing VOSH rule, regulation, or standard, the more stringent requirement from an occupational safety and health hazard prevention standpoint shall apply. Notwithstanding anything to the

contrary in this standard, no enforcement action shall be brought against an employer or institution for failure to provide PPE required by this standard if such PPE is not readily available on commercially reasonable terms, and the employer or institution makes a good faith effort to acquire or provide such PPE as is readily available on commercially reasonable terms. The Department of Labor and Industry shall consult with the Virginia Department of Health as to the ready availability of PPE on commercially reasonable terms and, in the event there are limited supplies of PPE, whether such supplies are being allocated to ~~high risk or very high risk~~ the appropriate workplaces.

D. ~~Application of this standard to a place of employment will be based on the exposure risk level presented by SARS-CoV-2 virus-related and COVID-19 disease-related hazards present or job tasks undertaken by employees at the place of employment as defined in this standard (i.e., very high, high, medium, and lower risk levels).~~

~~1. It is recognized that various hazards or job tasks at the same place of employment can be designated as very high, high, medium, or lower exposure risk for purposes of application of the requirements of this standard. It is further recognized that various required job tasks prohibit an employee from being able to observe physical distancing from other persons.~~

~~2. Factors that shall be considered in determining exposure risk level include, but are not limited to:~~

~~a. The job tasks being undertaken, the work environment (e.g., indoors or outdoors), the known or suspected presence of the SARS-CoV-2 virus, the presence of a person known or suspected to be infected with the SARS-CoV-2 virus, the number of employees and other persons in relation to the size of the work area, the working distance between employees and other employees or persons, and the duration and~~

~~frequency of employee exposure through contact inside of six feet with other employees or persons (e.g., including shift work exceeding eight hours per day); and~~

~~b. The type of hazards encountered, including exposure to respiratory droplets and potential exposure to the airborne transmission of SARS-CoV-2 virus; contact with contaminated surfaces or objects, such as tools, workstations, or break room tables, and shared spaces such as shared workstations, break rooms, locker rooms, and entrances and exits to the facility; shared work vehicles; and industries or places of employment where employer sponsored shared transportation is a common practice, such as ride-share vans or shuttle vehicles, car-pools, and public transportation, etc.~~ Reserved.

E. To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID-19 disease related hazards or job tasks addressed by this standard, ~~and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard~~, the employer's actions shall be considered in compliance with this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by a provision of this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard. The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.

~~F. A public or private institution of higher education that has received certification from the State Council of Higher Education for Virginia that the institution's reopening plans are in compliance with guidance documents, whether mandatory or non-mandatory, developed by the~~

~~Governor's Office in conjunction with the Virginia Department of Health shall be considered in compliance with this standard, provided the institution operates in compliance with its certified reopening plans and the certified reopening plans provide equivalent or greater levels of employee protection than this standard.~~

~~G. A public school division or private school that submits its plans to the Virginia Department of Education to move to Phase II and Phase III that are aligned with CDC guidance for reopening of schools that provide equivalent or greater levels of employee protection than a provision of this standard and that operate in compliance with the public school division's or private school's submitted plans shall be considered in compliance with this standard. An institution's actual compliance with recommendations contained in CDC guidelines or the Virginia Department of Education guidance, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by a provision of this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard. The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.~~

~~H.~~ F. Nothing in the standard shall be construed to require employers to conduct contact tracing of the SARS-CoV-2 virus or COVID-19 disease.

16VAC25-220-20. Effective dates.

A. Adoption process.

1. This ~~standard~~ chapter shall take effect upon review by the Governor, and if no revisions are requested, filing with the Registrar of Regulations and publication in a newspaper of general circulation published in the City of Richmond, Virginia.

2. If the Governor's review results in one or more requested revisions to the standard, the Safety and Health Codes Board shall reconvene to approve, amend, or reject the requested revisions.

3. If the Safety and Health Codes Board approves the requested revisions to the standard as submitted, the standard shall take effect upon filing with the Registrar of Regulations and publication in a newspaper of general circulation published in the City of Richmond, Virginia.

4. Should the Governor fail to review the standard under subdivision A 1 of this section within 30 days of its approval by the Safety and Health Codes Board, the board will not need to reconvene to take further action, and the standard shall take effect upon filing with the Registrar of Regulations and publication in a newspaper of general circulation published in the City of Richmond, Virginia.

~~5. The Governor reviewed the standard under subdivision A 1 of this section, and the effective date is January 27, 2021.~~

~~B. The requirements for 16VAC25-220-70 shall take effect on March 26, 2021. The training requirements in 16VAC25-220-80 shall take effect on March 26, 2021.~~

~~C. Within 14 days of the expiration of the Governor's COVID-19 State of Emergency and Commissioner of Health's COVID-19 Declaration of Public Emergency, the Safety and Health Codes Board shall notice a regular, special, or emergency meeting/conduct a regular, special, or emergency meeting to determine whether there is a continued need for the standard.~~

B. The requirements for this standard shall take effect on [DATE] except where otherwise noted.

C. The requirements for 16VAC25-220-70 shall take effect on [insert date 30 days after the effective date of this standard].

D. The training requirements in 16VAC25-220-80 shall take effect on [insert date 60 days after the effective date of this standard].

16VAC25-220-30. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Administrative control" means any procedure that significantly limits daily exposure to SARS-CoV-2 virus and COVID-19 disease related workplace hazards and job tasks by control or manipulation of the work schedule or manner in which work is performed. The use of personal protective equipment is not considered a means of administrative control.

"Aerosol-generating procedure" means a medical procedure that generates aerosols that can be infectious and are of respirable size. ~~For the purposes of this section, only~~ Only the following medical procedures are considered aerosol-generating procedures: open suctioning of airways; sputum induction; cardiopulmonary resuscitation; endotracheal intubation and extubation; non-invasive ventilation (e.g., BiPAP, CPAP); bronchoscopy; manual ventilation; medical/surgical/postmortem procedures using oscillating bone saws; and dental procedures involving: ultrasonic scalers; high-speed dental handpieces; air/water syringes; air polishing; and air abrasion.

"Airborne infection isolation room" or "AIIR," ~~formerly a negative pressure isolation room, means a single-occupancy patient-care room used to isolate persons with a suspected or confirmed airborne infectious disease. Environmental factors are controlled in AIIRs to minimize the transmission of infectious agents that are usually transmitted from person to person by droplet nuclei associated with coughing or aerosolization of contaminated fluids. AIIRs provide (i) negative pressure in the room so that air flows under the door gap into the room, (ii) an air flow rate of six to 12 air changes per hour (ACH) (six ACH for existing structures, 12 ACH for new construction or renovation), and (iii) direct exhaust of air from the room to the outside of the~~

~~building or recirculation of air through a high efficiency particulate air (HEPA) filter before returning to circulation~~ means a dedicated negative pressure patient-care room, with special air handling capability, which is used to isolate persons with a suspected or confirmed airborne-transmissible infectious disease. AIIRs include both permanent rooms and temporary structures (e.g., a booth, tent or other enclosure designed to operate under negative pressure).

"Ambulatory care" means healthcare services performed on an outpatient basis, without admission to a hospital or other facility. It is provided in settings such as: offices of physicians and other health care professionals; hospital outpatient departments; ambulatory surgical centers; specialty clinics or centers (e.g., dialysis, infusion, medical imaging); and urgent care clinics. Ambulatory care does not include home healthcare settings. ~~for the purposes of this section.~~

"ASTM" means American Society for Testing and Materials.

"Asymptomatic" means a person who does not have symptoms.

"Building or facility owner" means the legal entity, including a lessee, that exercises control over management and recordkeeping functions relating to a building or facility in which activities covered by this standard take place.

"CDC" means Centers for Disease Control and Prevention.

"Cleaning" means the removal of dirt and impurities, including germs, from surfaces~~. Cleaning alone does not kill germs. But by removing the germs, cleaning decreases their number and therefore the risk of spreading infection~~ using soap and water or other cleaning agents. Cleaning alone reduces germs on surfaces by removing contaminants and may also weaken or damage some of the virus particles, which decreases risk of infection from surfaces.

"Community transmission," also called "community spread," means people have been infected with SARS-CoV-2 in an area, including some who are not sure how or where they became infected. The level of community transmission may be obtained from the VDH website and is assessed using, at a minimum, two metrics: new COVID-19 cases per 100,000 persons in the last 7 days and percentage of positive SARS-CoV-2 diagnostic nucleic acid amplification tests in the last 7 days. For each of these metrics, CDC classifies transmission values as low, moderate, substantial, or high. If the values for each of these two metrics differ (e.g., one indicates moderate and the other low), then the higher of the two should be used for decision-making.

CDC core indicators of and thresholds for community transmission levels of SARS-CoV-2:

Indicator Level	**Low**	**Moderate**	**Substantial**	**High**
New COVID-19 cases per 100,000 persons in the last 7 days	0–9.99	10.00–49.99	50.00–99.99	≥100.00
Percentage of positive SARS-CoV-2 diagnostic nucleic acid amplification tests in the last 7 days	<5.00	5.00–7.99	8.00–9.99	≥10.00

~~The level of community transmission is classified by the CDC as:~~

~~1. "No to minimal" where there is evidence of isolated cases or limited community transmission, case investigations are underway, and no evidence of exposure in large communal settings;~~

~~2. "Moderate" where there is sustained community transmission with high likelihood or confirmed exposure within communal settings and potential for rapid increase in cases;~~

~~3. "Substantial, controlled" where there is large scale, controlled community transmission, including communal settings (e.g., schools, workplaces, etc.); or~~

~~4. "Substantial, uncontrolled" where there is large scale, uncontrolled community transmission, including communal settings (e.g., schools, workplaces, etc.).~~

"Confirmed COVID-19" means a person, whether symptomatic or asymptomatic, who has tested positive for SARS-CoV-2, and the employer knew or with reasonable diligence should have known that the person has tested positive for SARS-CoV-2.

"COVID-19" means Coronavirus Disease 2019, which is primarily a respiratory disease, caused by the SARS-CoV-2 virus.

"COVID-19 positive and confirmed COVID-19" refer to a person who has a confirmed positive test for, or who has been diagnosed by a licensed healthcare provider with COVID-19.

"COVID-19 test" means a test for SARS-CoV-2 that is:

1. Cleared or approved by the U.S. Food and Drug Administration (FDA) or is authorized by an Emergency Use Authorization (EUA) from the FDA to diagnose current infection with the SARS-CoV-2 virus; and

2. Administered in accordance with the FDA clearance or approval or the FDA EUA as applicable.

"Disinfecting" means using chemicals approved for use against SARS-CoV-2 virus, for example EPA-registered disinfectants, or non-EPA-registered disinfectants that otherwise meet the EPA criteria for use against SARS-CoV-2 virus, to kill germs on surfaces. The process of

disinfecting does not necessarily clean dirty surfaces or remove germs, but killing germs remaining on a surface after cleaning further reduces any risk of spreading infection.

"Duration and frequency of employee exposure" means how long ("duration") and how often ("frequency") an employee is potentially exposed to the SARS-CoV-2 virus or COVID-19 disease. Generally, the greater the frequency or length of time of the exposure, the greater the probability is for potential infection to occur. Frequency of exposure is generally more significant for acute acting agents or situations, while duration of exposure is generally more significant for chronic acting agents or situations. An example of an acute SARS-CoV-2 virus or COVID-19 disease situation could involve a customer, patient, or other person who is not fully vaccinated not wearing a face covering or personal protective equipment or coughing or sneezing directly into the face of an employee. An example of a chronic situation could involve a job task that requires an employee who is not fully vaccinated to interact either for an extended period of time inside six feet with a smaller static group of other employees or persons or for an extended period of time inside six feet with a larger group of other employees or persons in succession but for periods of shorter duration.

"Economic feasibility" means the employer is financially able to undertake the measures necessary to comply with one or more requirements in this ~~standard~~ chapter. The cost of corrective measures to be taken will not usually be considered as a factor in determining whether a violation of this ~~standard~~ chapter has occurred. If an employer's level of compliance lags significantly behind that of its industry, an employer's claim of economic infeasibility will not support a VOSH decision to decline to take enforcement action.

"Elastomeric respirator" means a tight-fitting respirator with a facepiece that is made of synthetic or rubber material that permits it to be disinfected, cleaned, and reused according to manufacturer's instructions. It is equipped with a replaceable cartridge, canister, or filter.

"Elimination" means a method of exposure control that removes the employee completely from exposure to SARS-CoV-2 virus and COVID-19 disease related workplace hazards and job tasks.

"Employee" means an employee of an employer who is employed in a business of his employer. Reference to the term "employee" in this ~~standard~~ chapter also includes, but is not limited to, temporary employees and other joint employment relationships, persons in supervisory or management positions with the employer, etc., in accordance with Virginia occupational safety and health laws, standards, regulations, and court rulings.

"Engineering control" means the use of substitution, isolation, ventilation, and equipment modification to reduce exposure to SARS-CoV-2 virus and COVID-19 disease related workplace hazards and job tasks.

~~"Exposure risk level" means the level of possibility that an employee could be exposed to the hazards associated with SARS-CoV-2 virus and the COVID-19 disease. The exposure risk level assessment should address all risks and all modes of transmission, including airborne transmission, as well as transmission by asymptomatic and presymptomatic individuals. Risk levels should be based on the risk factors present that increase risk exposure to COVID-19 and are present during the course of employment regardless of location. Hazards and job tasks have been divided into four risk exposure levels: very high, high, medium, and lower:~~

~~"Very high" exposure risk hazards or job tasks are those in places of employment with high potential for employee exposure to known or suspected sources of the SARS-CoV-2 virus (e.g., laboratory samples) or persons known or suspected to be infected with the SARS-CoV-2 virus, including, but not limited to, during specific medical, postmortem, or laboratory procedures:~~

1. Aerosol-generating procedures (e.g., intubation, cough induction procedures, bronchoscopies, some dental procedures and exams, or invasive specimen collection) on a patient or person known or suspected to be infected with the SARS-CoV-2 virus;

2. Collecting or handling specimens from a patient or person known or suspected to be infected with the SARS-CoV-2 virus (e.g., manipulating cultures from patients known or suspected to be infected with the SARS-CoV-2 virus); and

3. Performing an autopsy that involves aerosol-generating procedures on the body of a person known or suspected to be infected with the SARS-CoV-2 virus at the time of their death.

"High" exposure risk hazards or job tasks are those in places of employment with high potential for employee exposure inside six feet with known or suspected sources of SARS-CoV-2, or with persons known or suspected to be infected with the SARS-CoV-2 virus that are not otherwise classified as very high exposure risk, including, but not limited to:

1. Health care (physical and mental health) delivery and support services provided to a patient known or suspected to be infected with the SARS-CoV-2 virus, including field hospitals (e.g., doctors, nurses, cleaners, and other hospital staff who must enter patient rooms or areas);

2. Health care (physical and mental) delivery, care, and support services, wellness services, non-medical support services, physical assistance, etc., provided to a patient, resident, or other person known or suspected to be infected with the SARS-CoV-2 virus involving skilled nursing services, outpatient medical services, clinical services, drug treatment programs, medical outreach services, mental health services, home health care, nursing

home care, assisted living care, memory care support and services, hospice care, rehabilitation services, primary and specialty medical care, dental care, COVID-19 testing services, blood donation services, and chiropractic services;

3. First responder services provided to a patient, resident, or other person known or suspected to be infected with the SARS-CoV-2 virus;

4. Medical transport services (loading, transporting, unloading, etc.) provided to patients known or suspected to be infected with the SARS-CoV-2 virus (e.g., ground or air emergency transport, staff, operators, drivers, pilots, etc.);

5. Mortuary services involved in preparing (e.g., for burial or cremation) the bodies of persons who are known or suspected to be infected with the SARS-CoV-2 virus at the time of their death; and

6. Correctional facilities, jails, detention centers, and juvenile detention centers.

"Medium" exposure risk hazards or job tasks are those not otherwise classified as very high or high exposure risk in places of employment that require more than minimal occupational contact inside six feet with other employees, other persons, or the general public who may be infected with SARS-CoV-2, but who are not known or suspected to be infected with the SARS-CoV-2 virus. Medium exposure risk hazards or job tasks may include, but are not limited to, operations and services in:

1. Poultry, meat, and seafood processing; agricultural and hand labor; commercial transportation of passengers by air, land, and water; on-campus educational settings in schools, colleges, and universities; daycare and afterschool settings; restaurants and bars; grocery stores, convenience stores, and food banks; drug stores and pharmacies;

manufacturing settings; indoor and outdoor construction settings; work performed in customer premises, such as homes or businesses; retail stores; call centers; package processing settings; veterinary settings; personal care, personal grooming, salon, and spa settings; venues for sports, entertainment, movies, theaters, and other forms of mass gatherings; homeless shelters; fitness, gym, and exercise facilities; airports, and train and bus stations; etc.; and

2. Situations not involving exposure to known or suspected sources of SARS-CoV-2: hospitals, other health care (physical and mental) delivery and support services in a non-hospital setting, wellness services, physical assistance, etc.; skilled nursing facilities; outpatient medical facilities; clinics, drug treatment programs, and medical outreach services; non-medical support services; mental health facilities; home health care, nursing homes, assisted living facilities, memory care facilities, and hospice care; rehabilitation centers, doctors' offices, dentists' offices, and chiropractors' offices; first responders services provided by police, fire, paramedic and emergency medical services providers, medical transport; contact tracers; correctional facilities, jails, detentions centers, and juvenile detention centers, etc.

"Lower" exposure risk hazards or job tasks are those not otherwise classified as very high, high, or medium exposure risk that do not require contact inside six feet with persons known to be, or suspected of being, or who may be infected with SARS-CoV-2. Employees in this category have minimal occupational contact with other employees, other persons, or the general public, such as in an office building setting, or are able to achieve minimal occupational contact with others through the implementation of engineering, administrative and work practice controls, such as, but not limited to:

~~1. Installation of floor to ceiling physical barriers constructed of impermeable material and not subject to unintentional displacement (e.g., such as clear plastic walls at convenience stores behind which only one employee is working at any one time);~~

~~2. Telecommuting;~~

~~3. Staggered work shifts that allow employees to maintain physical distancing from other employees, other persons, and the general public;~~

~~4. Delivering services remotely by phone, audio, video, mail, package delivery, curbside pickup or delivery, etc., that allows employees to maintain physical distancing from other employees, other persons, and the general public; and~~

~~5. Mandatory physical distancing of employees from other employees, other persons, and the general public.~~

~~Employee use of face coverings for contact inside six feet of coworkers, customers, or other persons is not an acceptable administrative or work practice control to achieve minimal occupational contact.~~

"Face covering" means an item made of two or more layers of washable, breathable fabric that fits snugly against the sides of the face without any gaps, completely covering the nose and mouth and fitting securely under the chin. Neck gaiters made of two or more layers of washable, breathable fabric, or folded to make two such layers are considered acceptable face coverings. Nonmedical disposable masks for single use that otherwise meet the definition of "face covering" in ~~16VAC25-220~~ this chapter, with the exception that they are not washable, are permissible to use as face coverings. Face coverings shall not have exhalation valves or vents, which allow virus particles to escape, and shall not be made of material that makes it hard to breathe, such as vinyl.

A face covering is not a surgical ~~/medical procedure~~ mask or respirator. A face covering is not subject to testing and approval by a state or federal government agency, so it is not considered a form of personal protective equipment or respiratory protection equipment under VOSH laws, rules, regulations, and standards. Notwithstanding any other provisions in this definition, face coverings approved as having met ASTM standards for face coverings effective against the SARS-CoV-2 virus shall be considered to be in compliance with this ~~standard~~ chapter.

"Facemask" means a surgical, medical procedure, dental, or isolation mask that is FDA-cleared, authorized by an FDA Emergency Use Authorization (EUA), or offered or distributed as described in an FDA enforcement policy. Facemasks may also be referred to as "medical procedure masks."

"Face shield" means a device, typically made of clear plastic, that:

1. is certified to ANSI/ISEA Z87.1, or

2. covers the wearer's eyes, nose, and mouth to protect from splashes, sprays, and spatter of body fluids, wraps around the sides of the wearer's face (i.e., temple-to-temple), and extends below the wearer's chin.

~~form of personal protective equipment made of transparent, impermeable materials primarily used for eye protection from droplets or splashes for the person wearing it. A face shield is not a substitute for a face covering, surgical/medical procedure mask, or respirator.~~

"Feasible" as used in this ~~standard~~ chapter includes both technical and economic feasibility.

"Filtering facepiece respirator" means a negative pressure air purifying particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering

medium. Filtering facepiece respirators are certified for use by the National Institute for Occupational Safety and Health (NIOSH).

"Fully vaccinated" means a person is considered fully vaccinated for COVID-19 ≥2 weeks after they have received the second dose in a 2-dose series, or ≥2 weeks after they have received a single-dose vaccine, provided such vaccine has been FDA-approved, or authorized by an FDA Emergency Use Authorization (EUA), or authorized for emergency use by the World Health Organization (WHO).

"Hand sanitizer" means an alcohol-based hand rub containing at least 60% alcohol, unless otherwise provided for in this ~~standard~~ chapter.

"HIPAA" means Health Insurance Portability and Accountability Act.

~~"Known to be infected with the SARS-CoV-2 virus" means a person, whether symptomatic or asymptomatic, who has tested positive for SARS-CoV-2, and the employer knew or with reasonable diligence should have known that the person has tested positive for SARS-CoV-2.~~

~~"May be infected with SARS-CoV-2 virus" means any person not currently known or suspected to be infected with SARS-CoV-2 virus.~~

~~"Minimal occupational contact" means no or very limited, brief, and infrequent contact with employees or other persons at the place of employment. Examples include, but are not limited to, remote work (i.e., those working from home); employees with no more than brief contact with others inside six feet (e.g., passing another person in a hallway that does not allow physical distancing of six feet); health care employees providing only telemedicine services; a long distance truck driver.~~

"Health care services" mean services that are provided to individuals by professional healthcare practitioners (e.g., doctors, nurses, emergency medical personnel, oral health professionals) for the purpose of promoting, maintaining, monitoring, or restoring health. Health care services are delivered through various means including: hospitalization, long-term care, ambulatory care, home health and hospice care, emergency medical response, and patient transport. ~~For the purposes of this section, healthcare~~ Health care services include autopsies.

"Health care support services" mean services that facilitate the provision of health care services. Health care support services include patient intake/admission, patient food services, equipment and facility maintenance, housekeeping services, healthcare laundry services, medical waste handling services, and medical equipment cleaning/reprocessing services.

"Occupational exposure" means the state of being actually or potentially exposed to contact with SARS-CoV-2 virus or COVID-19 disease related hazards at the work location or while engaged in work activities at another location.

"Otherwise at-risk" means a person whose ability to have a full immune response to vaccination may have been affected by certain conditions, such as a prior transplant, as well as prolonged use of corticosteroids or other immune-weakening medications.

"Personal protective equipment" means equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses. These injuries and illnesses may result from contact with chemical, radiological, physical, electrical, mechanical, biological, or other workplace hazards. Personal protective equipment for actual or potential exposure to SARS-CoV-2 or COVID-19 exposure may include, but is not limited to, gloves, safety glasses, goggles, ~~shoes, earplugs or muffs, hard hats,~~ respirators, surgical ~~/medical procedure~~ masks, ~~facemask~~ facemasks, impermeable gowns or coveralls, face shields, vests, and full body suits.

"Physical distancing" also called "social distancing" means a person keeping space between himself and other persons while conducting work-related activities inside and outside of the physical establishment by staying at least six feet from other persons. Physical separation of an employee from other employees or persons by a permanent, solid floor to ceiling wall (e.g., an office setting) constitutes one form of physical distancing from an employee or other person stationed on the other side of the wall, provided that six feet of travel distance is maintained from others around the edges or sides of the wall as well.

"Powered air-purifying respirator (PAPR)" means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

"Respirator" means a ~~protective device that covers the nose and mouth or the entire face or head to guard the wearer against hazardous atmospheres. Respirators are certified for use by the National Institute for Occupational Safety and Health (NIOSH). Respirators may be (i) tight-fitting, which means either a half mask that covers the mouth and nose or a full face piece that covers the face from the hairline to below the chin or (ii) loose-fitting, such as hoods or helmets that cover the head completely.~~

~~There are two major classes of respirators:~~

~~1. Air-purifying, which remove contaminants from the air; and~~

~~2. Atmosphere-supplying, which provide clean, breathable air from an uncontaminated source. As a general rule, atmosphere-supplying respirators are used for more hazardous exposures.~~ type of personal protective equipment (PPE) that is certified by NIOSH under 42 CFR Part 84 or is authorized under an Emergency Use Authorization (EUA) by the FDA. Respirators protect against airborne hazards by removing specific air contaminants from the ambient (surrounding) air or by

supplying breathable air from a safe source. Common types of respirators include filtering facepiece respirators, elastomeric respirators, and PAPRs. Face coverings, facemasks, and face shields are not respirators

"Respirator user" means an employee who in the scope of their current job may be assigned to tasks that may require the use of a respirator in accordance with this ~~standard~~ chapter or required by other provisions in the VOSH and OSHA standards.

"SARS-CoV-2" means the novel virus that causes coronavirus disease 2019, or COVID-19. Coronaviruses are named for the crown-like spikes on their surfaces.

"Severely immunocompromised" means a seriously weakened immune system that lowers the body's ability to fight infection and may increase the risk of getting severely sick from SARS-CoV-2, from being on chemotherapy for cancer, being within one year out from receiving a hematopoietic stem cell or solid organ transplant, untreated HIV infection with CD4 T lymphocyte count less than 200, combined primary immunodeficiency disorder, and receipt of prednisone greater than 20mg per day for more than 14 days. The degree of immunocompromise is determined by the treating provider, and preventive actions are tailored to each individual and situation.

"Signs of COVID-19" are medical conditions that can be objectively observed and may include fever, cough, shortness of breath or trouble breathing ~~or shortness of breath, cough~~, vomiting, new confusion, ~~bluish lips or face,~~ inability to wake or stay awake, pale, gray, or blue-colored skin, lips, or nail beds, depending on skin tone, etc.

~~"Surgical/medical procedure mask" means a mask to be worn over the wearer's nose and mouth that is fluid resistant and provides the wearer protection against large droplets, splashes, or sprays of bodily or other hazardous fluids, and prevents the wearer from exposing others in the same~~

~~fashion. A surgical/medical procedure mask protects others from the wearer's respiratory emissions. A surgical/medical procedure mask has a looser fitting face seal than a tight-fitting respirator. A surgical/medical procedure mask does not provide the wearer with a reliable level of protection from inhaling smaller airborne particles. A surgical/medical procedure mask is considered a form of personal protective equipment, but is not considered respiratory protection equipment under VOSH laws, rules, regulations, and standards. Testing and approval is cleared by the U.S. Food and Drug Administration (FDA).~~

"Surgical mask" means a mask that covers the user's nose and mouth and provides a physical barrier to fluids and particulate materials. The mask meets certain fluid barrier protection standards and Class I or Class II flammability tests. Surgical masks are generally regulated by FDA as Class II devices under 21 CFR 878.4040 – Surgical apparel.

"Suspected ~~to be infected with SARS-CoV-2 virus~~ COVID-19" means a person who has ~~signs or symptoms of COVID-19 but has not tested positive for SARS-CoV-2, and no alternative diagnosis has been made (e.g., tested positive for influenza)~~ been told by a licensed healthcare provider that they are suspected to have COVID-19; or is experiencing recent loss of taste and/or smell with no other explanation; or is experiencing both fever (≥100.4°F) and new unexplained cough associated with shortness of breath; or has symptoms consistent with the clinical criteria in the CDC national case definition and no other explanation for symptoms exist.

"Symptomatic" means a person is experiencing signs or symptoms attributed to COVID-19. A person may become symptomatic two to 14 days after exposure to the SARS-CoV-2 virus.

"Symptoms of COVID-19" are medical conditions that are subjective to the person and not observable to others and may include chills, fatigue, muscle or body aches, headache, new loss of

taste or smell, sore throat, congestion or runny nose, nausea, ~~congestion or runny nose,~~ or diarrhea, etc.

"Technical feasibility" means the existence of technical know-how as to materials and methods available or adaptable to specific circumstances that can be applied to one or more requirements in this ~~standard~~ chapter with a reasonable possibility that employee exposure to the SARS-CoV-2 virus and COVID-19 disease hazards will be reduced. If an employer's level of compliance lags significantly behind that of the employer's industry, allegations of technical infeasibility will not be accepted.

"USBC" means Virginia Uniform Statewide Building Code.

"Vaccine" means a biological product authorized or licensed by the FDA to prevent or provide protection against COVID-19, whether the substance is administered through a single dose or a series of doses.

"VDH" means Virginia Department of Health.

"VOSH" means Virginia Occupational Safety and Health.

"Work practice control" means a type of administrative control by which the employer modifies the manner in which the employee performs assigned work. Such modification may result in a reduction of exposure to SARS-CoV-2 virus and COVID-19 disease related workplace hazards and job tasks through such methods as changing work habits, improving sanitation and hygiene practices, or making other changes in the way the employee performs the job.

16VAC25-220-40. Mandatory requirements for all employers.

A. ~~Employers shall ensure compliance with the requirements in this section to protect employees in all exposure risk levels from workplace exposure to the SARS-CoV-2 virus that causes the COVID-19 disease.~~ Employers shall have a policy in place to ensure compliance with the requirements in this section to protect employees from workplace exposure to the SARS-CoV-2 virus that causes the COVID-19 disease. Such policy shall have a method to receive anonymous complaints of violations. An employer that enforces its policy in good faith and resolves filed complaints shall be considered in compliance with this subsection.

B. Exposure assessment and determination, notification requirements, and employee access to exposure and medical records.

1. Employers shall assess their workplace for hazards and job tasks that can potentially expose employees to the SARS-CoV-2 virus or COVID-19 disease. ~~Employers shall classify each job task according to the hazards employees are potentially exposed to and ensure compliance with the applicable sections of this standard for very high, high, medium, or lower risk levels of exposure.~~ Tasks that are similar in nature and ~~expose~~ employees exposed to the same hazard may be grouped for classification purposes.

Employers may rely on an employee's representation of being fully vaccinated, as defined herein, without requiring proof of vaccination; however, nothing in this ~~standard~~ chapter shall be construed to preclude an employer from requiring proof that an employee is fully vaccinated.

2. Employers shall inform employees of the methods of and encourage employees to self-monitor for signs and symptoms of COVID-19 if employees suspect possible exposure ~~or are experiencing signs or symptoms of illness~~.

3. Serological testing, also known as antibody testing, is a test to determine if persons have been infected with SARS-CoV-2 virus. It has not been determined that persons who test positive for the presence of antibodies by serological testing are immune from infection.

a. Serologic test results shall not be used to make decisions about returning employees to work who were previously classified as ~~known or suspected to be infected with the SARS-CoV-2 virus.~~ <u>suspected or confirmed COVID-19.</u>

b. Serologic test results shall not be used to make decisions concerning employees who were previously classified as ~~known or suspected to be infected with the SARS-CoV-2 virus~~ <u>suspected or confirmed COVID-19</u> about grouping, residing in, or being admitted to congregate settings, such as schools, dormitories, etc.

4. Employers shall develop and implement policies and procedures for employees to report when they are experiencing signs or symptoms consistent with COVID-19, and no alternative diagnosis has been made (e.g., tested positive for influenza). Such employees shall be designated by the employer as ~~"suspected to be infected with SARS-CoV-2 virus."~~ <u>suspected COVID-19.</u>

5. Employers shall not permit <u>suspected or confirmed COVID-19</u> employees or other persons ~~known or suspected to be infected with SARS-CoV-2 virus~~ to report to or remain at the work site or engage in work at a customer or client location until cleared for return to work (see subsection C of this section).

Nothing in this ~~standard~~ chapter shall prohibit an employer from permitting ~~an employee known or suspected to be infected with SARS-CoV-2 virus~~ a suspected or confirmed COVID-19 employee from engaging in teleworking or other form of work isolation that would not result in potentially exposing other employees to the SARS-CoV-2 virus.

6. Employers shall discuss with subcontractors and companies that provide contract or temporary employees the importance and requirement to exclude from work employees or other persons (e.g., volunteers) who are ~~known or suspected to be infected with the SARS-CoV-2 virus.~~ suspected or confirmed COVID-19. Subcontractor, contract, or temporary employees ~~known or suspected to be infected with the SARS-CoV-2 virus~~ who are suspected or confirmed COVID-19 shall not report to or be allowed to remain at the work site until cleared for return to work. Subcontractors shall not allow their suspected or confirmed COVID-19 employees ~~known or suspected to be infected with the SARS-CoV-2 virus~~ to report to or be allowed to remain at work or on a job site until cleared for return to work.

7. To the extent permitted by law, including HIPAA, employers shall establish a system to receive reports of positive ~~SARS-CoV-2~~ COVID-19 tests by employees, subcontractors, contract employees, and temporary employees (excluding patients hospitalized on the basis of being ~~known or suspected to be infected with SARS-CoV-2 virus~~ suspected or confirmed COVID-19) present at the place of employment within two days prior to symptom onset (or positive test if the employee is asymptomatic) until 10 days after onset (or positive test). Employers shall notify:

a. The employer's own employees who may have been exposed, within 24 hours of discovery of the employees' possible exposure, while keeping confidential the identity

of the confirmed COVID-19 person ~~known to be infected with SARS-CoV-2 virus~~ in accordance with the requirements of the Americans with Disabilities Act (ADA) and other applicable federal and Virginia laws and regulations;

b. In the same manner as subdivision 7 a of this subsection, other employers whose employees were present at the work site during the same time period;

c. In the same manner as subdivision 7 a of this subsection, the building or facility owner. The building or facility owner will require all employer tenants to notify the owner of the occurrence of a ~~SARS-CoV-2~~ COVID-19 positive test for any employees or residents in the building. This notification will allow the owner to take the necessary steps to ~~sanitize~~ clean the common areas of the building. In addition, the building or facility owner will notify all employer tenants in the building that one or more cases have been discovered and the floor or work area where the case was located. The identity of the individual will be kept confidential in accordance with the requirements of the Americans with Disabilities Act (ADA) and other applicable federal and Virginia laws and regulations;

d. The Virginia Department of Health ~~during a declaration of an emergency by the Governor pursuant to § 44-146.17 of the Code of Virginia~~. Every employer as defined by § 40.1-2 of the Code of Virginia shall report to the Virginia Department of Health (VDH) when the work site has had two or more confirmed cases of COVID-19 of its own employees present at the place of employment within a 14-day period testing positive for ~~SARS-CoV-2 virus~~ COVID-19 during that 14-day time period. Employers shall make such a report in a manner specified by VDH, including name, date of birth, and contact information of each case, within 24 hours of becoming aware of such cases.

Employers shall continue to report all cases until the local health department has closed the outbreak investigation. After the outbreak investigation is closed, subsequent identification of two or more confirmed cases of COVID-19 ~~during a declared emergency~~ shall be reported, as required by this subdivision B 7 d. The following employers are exempt from this provision because of separate outbreak reporting requirements contained in 12VAC5-90-90: any residential or day program, service, or facility licensed or operated by any agency of the Commonwealth, school, child care center, or summer camp; and

e. The Virginia Department of Labor and Industry within 24 hours of the discovery of ~~three~~ two or more of its own employees present at the place of employment within a 14-day period testing positive for ~~SARS-CoV-2 virus~~ COVID-19 during that 14-day time period. A reported positive ~~SARS-CoV-2 virus~~ COVID-19 test does not need to be reported more than once and will not be used for the purpose of identifying more than one grouping of ~~three~~ two or more cases, or more than one 14-day period.

8. Employers shall ensure employee access to the employee's own SARS-CoV-2 virus and COVID-19 disease related exposure and medical records in accordance with the standard applicable to its industry. Employers in the agriculture, public sector marine terminal, and public sector longshoring industries shall ensure employees' access to the employees' own SARS-CoV-2 virus and COVID-19 disease related exposure and medical records in accordance with 16VAC25-90-1910.1020, Access to Employee Exposure and Medical Records.

C. Return to work. Employers shall develop and implement policies and procedures for ~~employees known or suspected to be infected with the SARS-CoV-2 virus~~ suspected or confirmed COVID-19 employees to return to work.

~~1. Symptomatic employees known or suspected to be infected with the SARS-CoV-2 virus are excluded from returning to work until all three of the following conditions have been met:~~

~~a. The employee is fever-free (below 100.0° F) for at least 24 hours, without the use of fever-reducing medications;~~

~~b. Respiratory symptoms, such as cough and shortness of breath have improved; and~~

~~c. At least 10 days have passed since symptoms first appeared.~~

~~However, a limited number of employees with severe illness may produce replication-competent virus beyond 10 days that may warrant extending duration of isolation for up to 20 days after symptom onset. Employees who are severely immunocompromised may require testing to determine when they can return to work, and the employer shall consider consultation with infection control experts. VOSH will consult with VDH when identifying severe employee illnesses that may warrant extended duration of isolation or severely immunocompromised employees required to undergo testing.~~

~~2. Employees known to be infected with SARS-CoV-2 who never develop signs or symptoms are excluded from returning to work until 10 days after the date of their first positive RT-PCR test for SARS-CoV-2 RNA.~~

1. If the employer knows an employee is COVID-19 positive, regardless of vaccination status then the employer must immediately remove that employee from the worksite and

keep the employee removed until they meet the return to work criteria in ~~16VAC25-220-40-C-3~~ subdivision C 3 of this subsection.

2. If the employer knows an employee is suspected COVID-19, regardless of vaccination status then the employer must immediately remove that employee from the worksite and either:

a. Keep the employee removed until they meet the return to work criteria in ~~16VAC25-220-40-C-3~~ subdivision C 3 of this subsection; or

b. Keep the employee removed and provide a COVID-19 polymerase chain reaction (PCR) test at no cost to the employee.

(1) If the test results are negative, the employee may return to work immediately.

(2) If the test results are positive, the employer must comply with ~~16VAC25-220-40-C-1~~ subdivision C 1 of this subsection.

(3) If the employee refuses to take the test, the employer must continue to keep the employee removed from the workplace consistent with ~~16VAC25-220-40-C-1~~ subdivision C 1 of this subsection. Absent undue hardship, employers must make reasonable accommodations for employees who cannot take the test for religious or disability-related medical reasons.

3. The employer must make decisions regarding an employee's return to work after a COVID-19-related workplace removal in accordance with guidance from a licensed healthcare provider, a VDH public health professional, or CDC's "Isolation Guidance" (hereby incorporated by reference); and CDC's "Return to Work Healthcare Guidance" (hereby incorporated by reference). If an employee has a known exposure to someone with

COVID-19, the employee must follow any testing or quarantine guidance provided by a VDH public health professional.

~~3~~ 4. For purposes of this section, COVID-19 testing is considered a "medical examination" under § 40.1-28 of the Code of Virginia. Employers shall not require employees to pay for the cost of COVID-19 testing for return to work determinations. If an employer's health insurance covers the entire cost of COVID-19 testing, use of the insurance coverage would not be considered a violation of ~~this~~ subdivision C 3 of this subsection.

D. Unless otherwise provided in this ~~standard~~ chapter, employers shall establish and implement policies and procedures that ensure employees that are not fully vaccinated and otherwise at-risk employees observe physical distancing while on the job and during paid breaks on the employer's property, including policies and procedures that:

1. Use verbal announcements, signage, or visual cues to promote physical distancing~~.~~;

2. Decrease worksite density by limiting non-employee access to the place of employment or restrict access to only certain workplace areas to reduce the risk of exposure. An employer's compliance with occupancy limits contained in any applicable Virginia executive order or order of public health emergency will constitute compliance with the requirements in this subsection~~.~~; and

3. Provide that such requirements do not apply to fully vaccinated employees.

E. Access to common areas, breakrooms, or lunchrooms shall be closed or controlled. This subsection does not apply to fully vaccinated employees.

If the nature of an employer's work or the work area does not allow employees to consume meals in the employee's workspace while observing physical distancing, an employer may

designate, reconfigure, and alternate usage of spaces where employees congregate, including lunch and break rooms, locker rooms, time clocks, etc., with controlled access, provided the following conditions are met:

1. At the entrance of the designated common area or room, employers shall clearly post the policy limiting the occupancy of the space and requirements for physical distancing, hand washing and hand sanitizing, and cleaning ~~and disinfecting~~ of shared surfaces for employees who are not fully vaccinated~~.~~;

2. Employers shall limit occupancy of the designated common area or room so that occupants who are not fully vaccinated can maintain physical distancing from each other. Employers shall enforce the occupancy limit~~.~~;

3. ~~Employees shall be required to clean and disinfect the immediate area in which they were located prior to leaving, or employers may provide for cleaning and disinfecting of the common area or room at regular intervals throughout the day and between shifts of employees using the same common area or room (i.e., where an employee or groups of employees have a designated lunch period and the common area or room can be cleaned in between occupancies).~~ When no suspected or confirmed COVID-19 persons are known to have been in a space, the employer shall clean the common area, breakroom, or lunchroom once per shift~~.~~; and

4. Handwashing facilities, and hand sanitizer where feasible, are available to employees. Hand sanitizers required for use to protect against SARS-CoV-2 are flammable and use and storage in hot environments can result in a hazard.

F. When ~~multiple employees are~~ an employee is occupying a vehicle or other form of transportation with one or more employees or other persons for work purposes, employers shall use the hierarchy of hazard controls to mitigate the hazards associated with SARS-CoV-2 and COVID-19 to prevent employee exposures in the following order (This subsection does not apply to fully vaccinated employees in areas of low to moderate community transmission and except as otherwise noted):

1. Eliminate the need for employees to share work vehicles or other transportation and arrange for alternative means for additional employees to travel to work sites.

2. Provide access to fresh air ventilation (e.g., windows). Do not recirculate cabin air.

3. When physical distancing cannot be maintained, establish procedures to maximize separation between employees as well as other persons during travel (e.g., setting occupancy limits, sitting in alternate seats, etc.).

4. When ~~employees~~ an employee who is not fully vaccinated must share a work ~~vehicles~~ vehicle or other transportation with one or more employees or other persons because no other alternatives are available, such employees shall be provided with and wear respiratory protection, such as an N95 filtering face piece respirator, or a face covering at the option of the employee. When an employee who is fully vaccinated must share work vehicles or other transportation with one or more employees or other persons in areas of substantial or high community transmission because no other alternatives are available, such employees shall be provided with and wear face coverings.

5. The employer shall ensure compliance with respiratory protection and personal protective equipment standards applicable to the employer's industry (e.g., when one or

more employees is accompanying a suspected or confirmed COVID-19person in an ambulance).

~~5~~ 6. Until adequate supplies of respiratory protection and/or personal protective equipment become readily available for non-medical and non-first responder employers and employees, employers shall provide and employees shall wear face coverings while occupying a work vehicle or other transportation with other employees or persons.

Notwithstanding anything to the contrary in this ~~standard~~ chapter, the Secretary of ~~Commerce and Trade~~ Labor may exercise discretion in the enforcement of an employer's failure to provide PPE required by this ~~standard~~ chapter, if the employer demonstrates that the employer:

a. Is exercising due diligence to come into compliance with such requirement; and

b. Is implementing alternative methods and measures to protect employees that are satisfactory to the Secretary of ~~Commerce and Trade~~ Labor after consultation with the ~~commissioner~~ Commissioner of Labor and Industry and the Secretary of Health and Human Services.

7. For commercial motor vehicles or trucks, if the driver is the only person in the vehicle or truck, or the vehicle or truck is operated by a team who all live in the same household and are the only persons in the vehicle, an employer whose drivers complied with the above-referenced language would be considered to be in compliance with ~~16VAC25-220-40~~ subdivisions F 1 through F 5.

G. ~~Where the nature of an employee's work or the work area does not allow the employee to observe physical distancing requirements, employers shall ensure compliance with respiratory~~

~~protection and personal protective equipment standards applicable to its industry.~~ Employers shall provide and require employees that are not fully vaccinated, fully vaccinated employees in areas of substantial or high community transmission, and otherwise at-risk employees (because of a prior transplant or other medical condition), to wear face coverings or surgical masks while indoors, unless their work task requires a respirator or other PPE. Such employees shall wear a face covering or surgical mask that covers the nose and mouth to contain the wearer's respiratory droplets and help protect others and potentially themselves. This subsection does not apply to fully vaccinated employees in areas of low to moderate community transmission, and except as otherwise noted.

~~1.~~ The following are exceptions to the requirements for face coverings, facemasks or surgical masks for employees that are not fully vaccinated and fully vaccinated employees in areas of substantial or high community transmission:

~~a~~ 1. When an employee is alone in a room.

~~b~~ 2. While an employee is eating and drinking at the workplace, provided each employee who is not fully vaccinated is at least ~~6~~ six feet away from any other person, or separated from other people by a physical barrier.

~~c~~ 3. When employees are wearing respiratory protection in accordance with 1910.134 or this ~~standard~~ chapter.

~~d~~ 4. When it is important to see a person's mouth (e.g., communicating with an individual who is deaf or hard of hearing) and the conditions do not permit a facemask that is constructed of clear plastic (or includes a clear plastic window). In such situations, the

employer must ensure that each employee wears an alternative to protect the employee, such as a face shield, if the conditions permit it.

~~e~~ 5. When employees cannot wear facemasks due to a medical necessity, medical condition, or disability as defined in the Americans with Disabilities Act (42 USC § 12101 et seq.), or due to a religious belief. Exceptions must be provided for a narrow subset of persons with a disability who cannot wear a facemask or cannot safely wear a facemask, because of the disability, as defined in the Americans with Disabilities Act (42 USC § 12101 et seq.), including a person who cannot independently remove the facemask. The remaining portion of the subset who cannot wear a facemask may be exempted on a case-by-case basis as required by the Americans with Disabilities Act and other applicable laws. In all such situations, the employer must ensure that any such employee wears a face shield for the protection of the employee, if their condition or disability permits it. Accommodations may also need to be made for religious beliefs consistent with Title VII of the Civil Rights Act of 1964 (42 USC § 2000e et seq).

~~f~~ 6. When the employer can demonstrate that the use of a facemask presents a hazard to an employee of serious injury or death (e.g., arc flash, heat stress, interfering with the safe operation of equipment). In such situations, the employer must ensure that each employee wears an alternative to protect the employee, such as a face shield, if the conditions permit it. Any employee not wearing a facemask must remain at least ~~6~~ six feet away from all other people unless the employer can demonstrate it is not feasible. The employee must resume wearing a facemask when not engaged in the activity where the facemask presents a hazard.

Note to ~~16VAC25-220-40 G 1 d, G 1 e, and G 1 f~~ subdivisions 4, 5, and 6 of this subsection: The employer may determine that the use of face shields, without facemasks, in certain settings is not appropriate due to other infection control concerns.

~~g~~ 7. Where a face shield is required to comply with this paragraph or is otherwise required by the employer, the employer must ensure that face shields are cleaned at least daily and are not damaged. When an employee provides a face shield that meets the definition of that term in 16VAC25-220-30, the employer may allow the employee to use it and is not required to reimburse the employee for that face shield.~~2.~~ Notwithstanding anything to the contrary in this standard, the Secretary of Labor may exercise discretion in the enforcement of an employer's failure to provide PPE required by this ~~standard~~ chapter, if the employer demonstrates that the employer:

a. Is exercising due diligence to come into compliance with such requirement; and

b. Is implementing alternative methods and measures to protect employees that are satisfactory to the Secretary of Labor after consultation with the Commissioner of Labor and Industry and the Secretary of Health and Human Services.

H. ~~When it is necessary for employees solely exposed to lower risk hazards or job tasks to have brief contact with others inside six feet (e.g., passing another person in a hallway that does not allow physical distancing of six feet), a face covering is required.~~ Reserved.

I. When required by this ~~standard~~ chapter, face coverings shall be worn over the wearer's nose and mouth and extend under the chin.

J. ~~Nothing in this standard shall require the use of a respirator, surgical/medical procedure mask, or face covering by any employee for whom doing so would be contrary to the employee's~~

~~health or safety because of a medical condition; however, nothing in this standard shall negate an employer's obligations to comply with personal protective equipment and respiratory protection standards applicable to its industry.~~

~~1. Although face shields are not considered a substitute for face coverings as a method of source control and not used as a replacement for face coverings among people without medical contraindications, face shields may provide some level of protection against contact with respiratory droplets. In situations where a face covering cannot be worn due to medical contraindications, employers shall provide and employees shall wear either:~~

~~a. A face shield that wraps around the sides of the wearer's face and extends below the chin; or~~

~~b. A hooded face shield.~~

~~2. To the extent feasible, employees wearing face shields in accordance with this subsection shall observe physical distancing requirements in this standard.~~

~~3. Face shield wearers shall wash their hands before and after removing the face shield and avoid touching their eyes, nose, and mouth when removing it.~~

~~4. Disposable face shields shall only be worn for a single use and disposed of according to manufacturer instructions.~~

~~5. Reusable face shields shall be cleaned and disinfected after each use according to manufacturer instructions.~~ Reserved.

K. ~~Requests to the Department of Labor and Industry for religious waivers from the required use of respirators, surgical/medical procedure masks, or face coverings will be handled in accordance with the requirements of applicable federal and state law, standards, regulations and~~

~~the U.S. and Virginia Constitutions, after Department of Labor and Industry consultation with the Office of the Attorney General.~~ Reserved.

L. Sanitation and disinfecting.

1. In addition to the requirements contained in this ~~standard~~ chapter, employers shall comply with the VOSH sanitation standard applicable to its industry.

2. ~~Employees that interact with customers, the general public, contractors, and other persons shall be provided with and immediately use supplies to clean and disinfectant surfaces contacted during the interaction where there is the potential for exposure to the SARS-CoV-2 virus by themselves or other employees.~~ Reserved.

3. In addition to the requirements contained in this ~~standard~~ chapter, employers shall comply with the VOSH hazard communication standard applicable to the employers' industry for cleaning and disinfecting materials and hand sanitizers. (e.g., 16VAC25-90-1910-1200; 16VAC25-175-1926.59).

4. Areas in the place of employment where ~~employees or other persons known or suspected to be infected with the SARS-CoV-2 virus~~ suspected or confirmed COVID-19 employees or other persons accessed or worked shall be cleaned and disinfected prior to allowing other employees access to the areas~~. Where feasible, a period of 24 hours will be observed prior to cleaning and disinfecting. This requirement shall not apply if the areas in question have been unoccupied for seven or more days.~~ as follows:

a. The provisions in subdivisions 4 b, 4 c, and 4 d of this subsection do not apply to healthcare settings or for operators of facilities such as food and agricultural production or processing workplace settings, manufacturing workplace settings, or food

preparation and food service areas where specific regulations or practices for cleaning and disinfection may apply.

b. If less than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, clean and disinfect the space.

c. If more than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, cleaning is enough. You may choose to also disinfect depending on certain conditions or everyday practices required by your facility.

d. If more than ~~3~~ three days have passed since the person who is sick or diagnosed with COVID-19 has been in the space, no additional cleaning or disinfecting beyond regular cleaning practices is needed.

5. All common spaces, including bathrooms (including port-a-johns, privies, etc.), frequently touched surfaces, and doors, shall at a minimum be cleaned ~~and disinfected~~ at least once during or at the end of the shift~~. Where~~ (where multiple shifts are employed, such spaces shall be cleaned ~~and disinfected~~ no less than once every 12 hours), except as otherwise provided below:

a. The provision in subdivision 5 b of this subsection does not apply to healthcare settings or for operators of facilities such as food and agricultural production or processing workplace settings, manufacturing workplace settings, or food preparation and food service areas where specific regulations or practices for cleaning and disinfection may apply.

b. When no suspected or confirmed COVID-19 persons are known to have been in a space, clean once a day.

6. All shared tools, equipment, workspaces, and vehicles shall be cleaned ~~and disinfected~~ prior to transfer from one employee to another. This subsection does not apply when the transfer is from one fully vaccinated employee to another fully vaccinated employee.

7. Employers shall ensure that cleaning and disinfecting products are readily available to employees to accomplish the required cleaning and disinfecting. In addition, employers shall ensure use of only disinfecting chemicals and products indicated in the Environmental Protection Agency (EPA) List N for use against SARS-CoV-2, or non-EPA-registered disinfectants that otherwise meet the EPA criteria for use against SARS-CoV-2.

8. Employers shall ensure that the manufacturer's instructions for use of all disinfecting chemicals and products ~~are complied with~~ (e.g., concentration, application method, contact time, PPE, etc.) are followed.

9. Employees shall have easy, frequent access and permission to use soap and water, and hand sanitizer where feasible, for the duration of work. Employees assigned to a work station where job tasks require frequent interaction inside six feet with other persons shall be provided with hand sanitizer where feasible at the employees work station.

10. Mobile crews shall be provided with hand sanitizer where feasible for the duration of work at a work site or client or customer location and shall have transportation immediately available to nearby toilet facilities and handwashing facilities that meet the requirements of VOSH laws, standards, and regulations dealing with sanitation. Hand sanitizers required for use to protect against SARS-CoV-2 are flammable, and use and storage in hot environments can result in a hazard.

11. ~~It is recognized that various hazards or job tasks at the same place of employment can be designated as very high, high, medium, or lower as presenting potential exposure risk for purposes of application of the requirements of this standard.~~ In situations other than emergencies, employers shall ensure that protective measures are put in place to prevent cross-contamination between tasks, areas, and personnel.

M. Unless otherwise provided in this ~~standard~~ chapter, when engineering, work practice, and administrative controls are not feasible or do not provide sufficient protection, employers shall provide personal protective equipment to their employees and ensure the equipment's proper use in accordance with VOSH laws, standards, and regulations applicable to personal protective equipment, including respiratory protection equipment.

16VAC25-220-50. Requirements for ~~hazards or job tasks classified as very high or high exposure risk~~ healthcare services or healthcare support services..

A. Scope and application.

1. Should the federal COVID-19 Emergency Temporary Standard, 29 CFR § 1910.502, et seq., applicable to settings where any employee provides healthcare services or healthcare support services, be adopted by the Virginia Safety and Health Codes Board and take effect, application of ~~Virginia's 16VAC-25-220~~ this chapter, except for 16VAC-25-220-40 B.7.d and e, and 16VAC25-220-90, to such covered employers and employees subject to the standard shall be suspended while the federal COVID-19 Emergency Temporary Standard remains in effect.

2. Should the federal COVID-19 Emergency Temporary Standard, 29 CFR § 1910.502, et seq., applicable to settings where any employee provides healthcare services or healthcare support services, be adopted by the Virginia Safety and Health Codes Board but later be stayed or invalidated by a state or federal court, the provisions of ~~Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19~~ this chapter, including 16VAC25-220-50, shall immediately apply to such employers and employees in its place with no further action of the Board required.

3. Should the federal COVID-19 Emergency Temporary Standard, 29 CFR § 1910.502, et seq., applicable to all settings where any employee provides healthcare services or healthcare support services, be adopted by the Virginia Safety and Health Codes Board but later be stayed by federal OSHA, or otherwise revoked, repealed, declared unenforceable, or permitted to expire, the provisions of ~~Virginia's 16VAC25-220, Final Permanent~~

~~Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19~~ this chapter, including 16VAC25-220-50, shall immediately apply to such employers and employees in its place with no further action of the Board required. In addition, the Virginia Safety and Health Codes Board shall within 30 days notice a regular, special, or emergency meeting/conduct a regular, special, or emergency meeting to determine whether there is a continued need for ~~Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19~~ this chapter, or whether it should be maintained, modified, or revoked.

~~A.~~ 4. The requirements in this section for employers ~~with hazards or job tasks classified as very high or high exposure risk~~ apply in addition to requirements contained in 16VAC25-220-40, 16VAC25-220-70, and 16VAC25-220-80.

5. Except as otherwise provided in this subsection, this section applies to all settings where any employee provides healthcare services or healthcare support services.

6. This section does not apply to the following:

a. the provision of first aid by an employee who is not a licensed healthcare provider;

b. the dispensing of prescriptions by pharmacists in retail settings;

c. non-hospital ambulatory care settings where all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter those settings;

d. well-defined hospital ambulatory care settings where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter those settings;

e. home healthcare settings where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not present;

f. healthcare support services not performed in a healthcare setting (e.g., off-site laundry, off-site medical billing); or

g. telehealth services performed outside of a setting where direct patient care occurs.

Note to paragraphs 16VAC25-220-50 A 5 d and 5 e: VOSH does not intend to preclude the employers of employees who are unable to be vaccinated from the scope exemption in paragraphs 16VAC25-220-50 A 5 d and 5 e. Under various anti-discrimination laws, workers who cannot be vaccinated because of medical conditions, such as allergies to vaccine ingredients, or certain religious beliefs may ask for a reasonable accommodation from their employer. Accordingly, where an employer reasonably accommodates an employee who is unable to be vaccinated in a manner that does not expose the employee to COVID-19 hazards (e.g., telework, working in isolation), that employer may be within the scope exemption in paragraphs 16VAC25-220-50 A 5 d and 5 e.

7. Where a healthcare setting is embedded within a non-healthcare setting (e.g., medical clinic in a manufacturing facility, walk-in clinic in a retail setting), this section applies only to the embedded healthcare setting and not to the remainder of the physical location.

~~8. In well-defined areas where there is no reasonable expectation that any person with suspected or confirmed COVID-19 will be present, paragraphs (f), (h), and (i) of this section do not apply to employees who are fully vaccinated.~~

B. Engineering controls.

1. Employers shall ensure that appropriate air-handling systems under their control:

a. Are installed and maintained in accordance with the USBC and manufacturer's instructions in healthcare facilities and other places of employment treating, caring for, or housing ~~persons known or suspected persons to be infected with the SARS-CoV-2 virus~~ suspected or confirmed COVID-19 persons; and

b. Where feasible and within the design parameters of the system, are utilized as follows:

(1) Increase total airflow supply to occupied spaces provided that a greater hazard is not created (e.g., airflow that is increased too much may make doors harder to open or may blow doors open);

(2) In ground transportation settings, use natural ventilation to increase outdoor air dilution of inside air in a manner that will aid in mitigating the spread of SARS-CoV-2 virus and COVID-19 disease transmission to employees, and when environmental conditions and transportation safety and health requirements allow;

(3) Inspect filter housing and racks to ensure appropriate filter fit and check for ways to minimize filter bypass;

(4) Increase air filtration to as high as possible in a manner that will still enable the system to provide airflow rates as the system design requires. Ensure compliance with higher filtration values is allowed by the air handler manufacturer's installation instructions and listing;

(5) Generate clean-to-less-clean air movements by re-evaluating the positioning of supply and exhaust air diffusers and/or dampers and adjusting zone supply and exhaust flow rates to establish measurable pressure differentials;

(6) Have staff work in "clean" ventilation zones that do not include higher-risk areas such as visitor reception or exercise facilities (if open);

(7) Ensure exhaust fans in restroom facilities are functional and operating continuously when the building is occupied;

(8) If the system's design can accommodate such an adjustment and is allowed by the air handler manufacturer's installation instructions and listing, improve central air filtration to MERV-13 and seal edges of the filter to limit bypass; and

(9) Check filters to ensure they are within service life and appropriately installed.

~~c~~ b. Comply with USBC and applicable referenced American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards.

2. Reserved. ~~For employers not covered by subdivision 1 of this subsection, ensure that air-handling systems where installed and under their control are appropriate to address the SARS-CoV-2 virus and COVID-19 disease related hazards and job tasks that occur at the workplace:~~

~~a. Are maintained in accordance with the manufacturer's instructions; and~~

~~b. Comply with subdivisions 1 b and 1 c of this subsection.~~

3. Hospitalized patients ~~known or suspected to be infected with the SARS-CoV-2 virus~~ who are suspected or confirmed COVID-19, where feasible and available, shall be placed in airborne infection isolation room (AIIRs).

4. Employers shall use AIIRs when available for performing aerosol-generating procedures on suspected or confirmed COVID-19 patients ~~with known or suspected to be infected with the SARS-CoV-2 virus~~.

5. For postmortem activities, employers shall use autopsy suites or other similar isolation facilities when performing aerosol-generating procedures on the bodies of persons ~~known or suspected to be infected with the SARS-CoV-2 virus~~ suspected or confirmed COVID-19 at the time of their death.

6. Employers shall use special precautions associated with Biosafety Level 3 (BSL-3), as defined by the U.S. Department of Health and Human Services Publication No. (CDC) 21-1112 Biosafety in Microbiological and Biomedical Laboratories" (Dec. 2009), which is hereby incorporated by reference, when handling specimens from patients or persons ~~known or suspected to be infected with the SARS-CoV-2 virus~~ suspected or confirmed COVID-19. Diagnostic laboratories that conduct routine medical testing and environmental specimen testing for COVID-19 are not required to operate at BSL-3.

7. To the extent feasible, employers shall install physical barriers, (e.g., clear plastic sneeze guards, etc.), where such barriers will aid in mitigating the spread of SARS-CoV-2 virus and COVID-19 disease transmission.

C. Administrative and work practice controls.

1. Prior to the commencement of each work shift, prescreening or surveying shall be required to verify each covered employee does not have signs or symptoms of COVID-19.

2. In health care facilities, employers shall follow existing guidelines and facility standards of practice for identifying and isolating infected persons and for protecting employees.

3. Employers shall limit non-employee access to the place of employment or restrict access to only certain workplace areas to reduce the risk of exposure. An employer's compliance with occupancy limits contained in any applicable Virginia executive order or order of public health emergency will constitute compliance with the requirements of this subdivision C 3.

4. Employers shall post signs requesting patients and family members to immediately report signs or symptoms of respiratory illness on arrival at the health care facility and use disposable face coverings.

5. Employers shall offer enhanced medical monitoring of employees during COVID-19 outbreaks.

6. To the extent feasible, an employer shall ensure that psychological and behavioral support is available to address employee stress at no cost to the employee.

7. In health care settings, employers shall provide alcohol-based hand sanitizers containing at least 60% ethanol or 70% isopropanol to employees at fixed work sites and to emergency responders and other personnel for decontamination in the field when working away from fixed work sites.

8. Employers shall provide face coverings to suspected COVID-19 non-employees ~~suspected to be infected with SARS-CoV-2 virus~~ to contain respiratory secretions until the non-employees are able to leave the site (i.e., for medical evaluation and care or to return home).

9. Where feasible, employers shall:

a. Implement flexible work site (e.g., telework).

b. Implement flexible work hours (e.g., staggered shifts).

c. Increase physical distancing between employees at the work site to six feet.

d. Increase physical distancing between employees and other persons to six feet.

e. Implement flexible meeting and travel options (e.g., use telephone or video conferencing instead of in person meetings,~~;~~ postpone non-essential travel or events,~~;~~ etc.).

f. Deliver services remotely (e.g. phone, video, internet, etc.).

g. Deliver products through curbside pick-up.

D. Personal protective equipment (PPE). ~~Employers covered by this section and not otherwise covered by the VOSH Standards for General Industry (16VAC25-90-1910.132), shall comply with the following requirements for a SARS-CoV-2 virus and COVID-19 disease-related hazard assessment and personal protective equipment selection:~~

~~1. Employers shall assess the workplace to determine if SARS-CoV-2 virus or COVID-19 disease hazards or job tasks are present or are likely to be present that necessitate the use of personal protective equipment (PPE). Employers shall provide for employee and employee representative involvement in the assessment process. If such hazards or job tasks are present or likely to be present, employers shall:~~

~~a. Except as otherwise required in the standard, select and have each affected employee use the types of PPE that will protect the affected employee from the SARS-CoV-2 virus or COVID-19 disease hazards identified in the hazard assessment;~~

~~b. Communicate selection decisions to each affected employee; and~~

~~c. Select PPE that properly fits each affected employee.~~

~~2. Employers shall verify that the required SARS-CoV-2 virus and COVID-19 disease workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated, the person certifying that the evaluation has been performed, the date of the hazard assessment, and the document as a certification of hazard assessment.~~

~~3. Unless specifically addressed by an industry specific standard applicable to the employer and providing for PPE protections to employees from the SARS-COV-2 virus or COVID-19 disease (e.g., 16VAC25-175-1926, 16VAC25-190-1928, 16VAC25-100-1915, 16VAC25-120-1917, or 16VAC25-130-1918), the requirements of 16VAC25-90-1910.132 (General requirements) and 16VAC25-90-1910.134 (Respiratory protection) shall apply to all employers for that purpose.~~

~~4.~~ 1. Unless contraindicated by a hazard assessment and equipment selection requirements in ~~subdivision 1 of this subsection~~ 16VAC25-90-1910.132, employees ~~classified as very high or high exposure risk~~ of employers covered by this section shall be provided with and wear gloves, a gown, a face shield or goggles, and a respirator when in contact with or inside six feet of suspected or confirmed COVID-19 patients or other persons ~~known to be or suspected of being infected with SARS-CoV-2~~. Gowns shall be the correct size to assure protection.

2. In addition, hazard assessment and equipment selection requirements may determine that respirators or other PPE are necessary in other circumstances to reduce exposure. When respirators are required, 16VAC25-90-1910.134 shall apply to all employees for that purpose.

16VAC25-220-60. Requirements for ~~hazards or job tasks classified at medium exposure risk~~ higher-risk workplaces..

A. The requirements in this section for employers with ~~hazards or job tasks classified as medium exposure risk~~ higher-risk workplaceswith mixed-vaccination status employees apply in addition to requirements contained in 16VAC25-220-40, 16VAC25-70, and 16VAC25-80.

Employers shall take the additional steps in subsections B, C, and D to mitigate the spread of COVID-19 for employees who are not fully vaccinated, employees who are fully vaccinated but work in a place of employment with substantial or high community transmission, and otherwise at-risk employees in workplaces (which include, but are not limited to, manufacturing, meat and poultry processing, high-volume retail and grocery, transit, seafood processing, correctional facilities, jails, detention centers, and juvenile detention centers) where there is heightened risk due to the following types of factors:

1. Where employees who are not fully vaccinated or otherwise at-risk employees are working close to one another, for example, on production or assembly lines. Such workers may also be near one another at other times, such as when clocking in or out, during breaks, or in locker/changing rooms.

2. Where employees who are not fully vaccinated or otherwise at-risk workers often have prolonged closeness to coworkers or potential frequent contact with members of the public who may not be fully vaccinated.

3. Where employees who are not fully vaccinated or otherwise at-risk workers work in enclosed indoor spaces with inadequate ventilation where other co-workers or members of the public are present.

4. Employees who are not fully vaccinated or otherwise at-risk employees who may be exposed to the infectious virus through respiratory droplets or aerosols in the air—for example, when employees who are not fully vaccinated or otherwise at-risk employees in a manufacturing or factory setting who have the virus. It is also possible that exposure could occur from contact with contaminated surfaces or objects, such as tools, workstations, or break room tables. Shared spaces such as break rooms, locker rooms, and entrances/exits to the facility may contribute to their risk.

5. Other distinctive factors that may increase risk among these employees who are not fully vaccinated or otherwise at-risk employees include:

a. A common practice at some workplaces of sharing employer-provided transportation such as ride-share vans or shuttle vehicles; and

b. Communal housing, or living quarters onboard vessels with other employees who are not fully vaccinated or otherwise at-risk individuals.

B. Engineering controls.

1. Employers shall ensure that air-handling systems under their control:

a. Are maintained in accordance with the manufacturer's instructions; and

b. Where feasible and within the design parameters of the system, are utilized as follows:

(1) Increase total airflow supply to occupied spaces provided that a greater hazard is not created (e.g., airflow that is increased too much may make doors harder to open or may blow doors open);

(2) In ground transportation settings, use natural ventilation to increase outdoor air dilution of inside air in a manner that will aid in mitigating the spread of SARS-CoV-2 virus and COVID-19 disease transmission to employees and when environmental conditions and transportation safety and health requirements allow;

(3) Inspect filter housing and racks to ensure appropriate filter fit and check for ways to minimize filter bypass;

(4) Increase air filtration to as high as possible in a manner that will still enable the system to provide airflow rates as the system design requires. Ensure compliance with higher filtration values is allowed by the air handler manufacturer's installation instructions and listing;

(5) Generate clean-to-less-clean air movements by re-evaluating the positioning of supply and exhaust air diffusers and/or dampers and adjusting zone supply and exhaust flow rates to establish measurable pressure differentials;

(6) Have staff work in "clean" ventilation zones that do not include higher-risk areas such as visitor reception or exercise facilities (if open);

(7) Ensure exhaust fans in restroom facilities are functional and operating continuously when the building is occupied;

(8) If the system's design can accommodate such an adjustment and is allowed by the air handler manufacturer's installation instructions and listing, improve central air filtration to MERV-13 and seal edges of the filter to limit bypass; and

(9) Check filters to ensure they are within service life and appropriately installed.

c. Comply with USBC and applicable referenced American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards.

2. Where feasible, employers shall ~~Install~~ install physical barriers (e.g., such as clear plastic sneeze guards, etc.)~~,~~ for employees who are not fully vaccinated or otherwise at-risk employees, where such barriers will aid in mitigating the spread of SARS-CoV-2 virus transmission.

3. In workplaces (or well-defined work areas) with processing or assembly lines where there are employees who are not fully vaccinated or otherwise at-risk employees, working on food processing or assembly lines can result in virus exposure because these workplaces have often been designed for a number of employees to stand next to or across from each other to maximize productivity. Employers shall ensure proper spacing of employee who are not fully vaccinated or otherwise at-risk employees (or if not possible, appropriate use of barriers).

C. Administrative and work practice controls. To the extent feasible, employers shall implement the following administrative and work practice controls in all higher-risk workplaces where there are employees who are not fully vaccinated or otherwise at-risk employees:

1. Prior to the commencement of each work shift, prescreening or surveying shall be required to verify each covered employee does not have signs or symptoms of COVID-19.

2. Provide face coverings to suspected COVID-19 non-employees ~~suspected to be infected with SARS-C0V-2~~ to contain respiratory secretions until the non-employees are able to leave the site (i.e., for medical evaluation and care or to return home).

3. ~~Implement flexible work site (e.g., telework).~~ Stagger break times or provide temporary break areas and restrooms to avoid groups of employees who are not fully vaccinated or otherwise at-risk employees congregating during breaks. Employees who are not fully vaccinated or otherwise at-risk employees shall maintain at least 6 feet of distance from others at all times, including on breaks.

4. ~~Implement flexible work hours (e.g., staggered shifts).~~ Stagger employee's arrival and departure times to avoid congregations of employees who are not fully vaccinated or otherwise at-risk in parking areas, locker rooms, and near time clocks.

5. ~~Increase physical distancing between employees at the work site to six feet.~~ Implement flexible work hours (e.g., staggered shifts).

6. ~~Increase physical distancing between employees and other persons, including customers, to six feet (e.g., drive-through physical barriers) where such barriers will aid in mitigating the spread of SARS-CoV-2 virus transmission, etc~~. Provide visual cues (e.g., floor markings, signs) as a reminder to maintain physical distancing.

7. ~~Implement flexible meeting and travel options (e.g., using telephone or video conferencing instead of in person meetings; postponing non-essential travel or events; etc.).~~ In retail workplaces (or well-defined work areas within retail) where there are employees who are not fully vaccinated, fully vaccinated employees in areas of substantial or high community transmission, or otherwise at-risk employees:

a. Post signage ~~requesting~~ requiring face coverings for employees who are not fully vaccinated (or unknown-status) and fully vaccinated employees in areas of substantial

or high community transmission; and requesting face coverings for customers and other visitors.

b. Require physical distancing from other people who are not known to be fully vaccinated. If distancing is not possible, implement the use of barriers between work stations used by employees who are not fully vaccinated or otherwise at-risk employees and the locations customers will stand, with pass-through openings at the bottom, if possible.

c. Move the electronic payment terminal/credit card reader farther away from any employees who are not fully vaccinated or otherwise at-risk employees in order to increase the distance between customers and such employees, if possible.

d. Shift primary stocking activities of employees who are not fully vaccinated or otherwise at-risk employees to off-peak or after hours when possible to reduce contact between employees who are not fully vaccinated or otherwise at-risk employees and customers.

8. Deliver services remotely (e.g. phone, video, internet, etc.).

9. Deliver products through curbside pick-up or delivery.

~~10. Employers shall provide and require employees to wear face coverings who, because of job tasks, cannot feasibly practice physical distancing from another employee or other person if the hazard assessment has determined that personal protective equipment, such as respirators or surgical/medical procedure masks, was not required for the job task.~~

~~11. Employers shall provide and require employees in customer or other person facing jobs to wear face coverings.~~

D. Personal protective equipment. This subsection does not apply to fully vaccinated employees. ~~Employers~~ Otherwise, employers covered by this section and not otherwise covered by the VOSH Standards for General Industry (16VAC25-90-1910.132) shall comply with the requirements of this subsection for a SARS-CoV-2 virus and COVID-19 disease related hazard assessment and personal protective equipment selection.

1. Employers shall assess the workplace to determine if SARS-CoV-2 virus or COVID-19 disease hazards or job tasks are present or are likely to be present that necessitate the use of personal protective equipment (PPE). Employers shall provide for employee and employee representative involvement in the assessment process. If such hazards or job tasks are present or likely to be present, employers shall:

a. Except as otherwise required in the ~~standard~~ chapter, select and have each affected employee use the types of PPE that will protect the affected employee from the SARS-CoV-2 virus or COVID-19 disease hazards identified in the hazard assessment;

b. Communicate selection decisions to each affected employee; and

c. Select PPE that properly fits each affected employee.

2. Employers shall verify that the required SARS-CoV-2 virus and COVID-19 disease workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date of the hazard assessment; and the document as a certification of hazard assessment.

3. Unless specifically addressed by an industry specific standard applicable to the employer and providing for PPE protections to employees from the ~~SARS-COV-2~~ SARS-Co-V-2

virus or COVID-19 disease (e.g., 16VAC25-175-1926, 16VAC25-190-1928, 16VAC25-100-1915, 16VAC25-120-1917, or 16VAC25-130-1918), the requirements of 16VAC25-90-1910.132 (General requirements) and 16VAC25-90-1910.134 (Respiratory protection) shall apply to all employers for that purpose.

4. PPE ensembles for employees ~~in the medium exposure risk category~~ will vary by work task, the results of the employer's hazard assessment, and the types of exposures employees have on the job.

16VAC25-220-70. Infectious disease preparedness and response plan.

A. ~~Employers with hazards or job tasks classified as:~~ The following employers shall develop and implement a written Infectious Disease Preparedness and Response Plan:

1. ~~Very high and high shall develop and implement a written Infectious Disease Preparedness and Response Plan~~ Employers covered by 16VAC25-220-50; and

2. ~~Medium with 11 or more employees shall develop and implement a written Infectious Disease Preparedness and Response Plan.~~ Employers covered by 16VAC25-220-60 with 11 or more employees. In counting the number of employees, the employer may exclude fully vaccinated employees.

B. The plan and training requirements tied to the plan shall ~~only apply to those employees classified as very high, high, and medium covered by this section~~. apply to those employees:

1. Covered by 16VAC25-220-50; and

2. Covered by 16VAC25-220-60, unless such employees are fully vaccinated.

C. Employers shall designate a person to be responsible for implementing their plan. The plan shall:

1. Identify the name or title of the person responsible for administering the plan. This person shall be knowledgeable in infection control principles and practices as the principles and practices apply to the facility, service, or operation.

2. Provide for employee involvement in development and implementation of the plan.

3. Consider and address the level of SARS-CoV-2 virus and COVID-19 disease risk associated with various places of employment, the hazards employees are exposed to at

those sites, and job tasks employees perform at those sites. Such considerations shall include:

a. Where, how, and to what sources of the SARS-CoV-2 virus or COVID-19 disease might employees be exposed at work, including:

(1) The general public, customers, other employees, patients, and other persons;

(2) Persons ~~known or suspected to be infected with the SARS-CoV-2 virus~~ suspected or confirmed COVID-19 or those at particularly high risk of COVID-19 infection (e.g., local, state, national, and international travelers who have visited locations with ongoing COVID-19 community transmission and health care employees who have had unprotected exposures to ~~persons known or suspected to be infected with SARS-CoV-2 virus~~) suspected or confirmed COVID-19 persons;

(3) Situations where employees work more than one job with different employers and encounter hazards or engage in job tasks that ~~present a very high, high, or medium level of exposure risk~~ involve potential exposure to sources of the SARS-CoV-2 virus or COVID-19 disease; and

(4) Situations where employees work during higher risk activities involving potentially large numbers of people or enclosed work areas such as at large social gatherings, weddings, funerals, parties, restaurants, bars, hotels, sporting events, concerts, parades, movie theaters, rest stops, airports, bus stations, train stations, cruise ships, river boats, airplanes, etc.

b. To the extent permitted by law, including HIPAA, employees' individual risk factors for severe disease. For example, people of any age with one or more of the following

conditions are at increased risk of severe illness from COVID-19: chronic kidney disease; COPD (chronic obstructive pulmonary disease); immunocompromised state (weakened immune system) from solid organ transplant; obesity (body mass index or BMI of 30 or higher); serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies; sickle cell disease; or type 2 diabetes mellitus. Also, for example, people with one or more of the following conditions might be at an increased risk for severe illness from COVID-19: asthma (moderate-to-severe); cerebrovascular disease (affects blood vessels and blood supply to the brain); cystic fibrosis; hypertension or high blood pressure; immunocompromised state (weakened immune system) from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines; neurologic conditions, such as dementia; liver disease; pregnancy; pulmonary fibrosis (having damaged or scarred lung tissues); smoking; thalassemia (a type of blood disorder); type 1 diabetes mellitus; etc. The risk for severe illness from COVID-19 also increases with age.

c. Engineering, administrative, work practice, and personal protective equipment controls necessary to address those risks.

4. Consider and address contingency plans for situations that may arise as a result of outbreaks that impact employee safety and health, such as:

a. Increased rates of employee absenteeism (an understaffed business can be at greater risk for accidents);

b. The need for physical distancing, staggered work shifts, downsizing operations, delivering services remotely, and other exposure-reducing workplace control measures such as elimination and substitution, engineering controls, administrative and work

practice controls, and personal protective equipment (e.g., respirators, surgical ~~/medical procedure~~ masks, etc.);

c. Options for conducting essential operations in a safe and healthy manner with a reduced workforce; and

d. Interrupted supply chains or delayed deliveries of safety and health related products and services essential to business operations.

5. Identify infection prevention measures to be implemented:

a. Promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons to the place of employment with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.

b. Maintain regular housekeeping practices, including routine cleaning and disinfecting of surfaces, equipment, and other elements of the work environment.

c. Establish policies and procedures for managing and educating visitors about the <u>infection prevention</u> procedures at the place of employment.

6. Provide for the prompt identification and isolation of ~~employees known or suspected to be infected with the SARS-CoV-2 virus~~ <u>suspected or confirmed COVID-19 employees</u> away from work, including procedures for employees to report when they are experiencing signs or symptoms of COVID-19.

7. Address infectious disease preparedness and response with outside businesses, including, but not limited to, subcontractors who enter the place of employment, businesses that provide contract or temporary employees to the employer, and other persons accessing

the place of employment to comply with the requirements of this ~~standard~~ chapter and the employer's plan.

8. Identify the mandatory and non-mandatory recommendations in any CDC guidelines or Commonwealth of Virginia guidance documents the employer is complying with, if any, in lieu of a provision of this ~~standard~~ chapter, as provided for in 16VAC25-220-10 E~~, F, and G~~.

16VAC25-220-80. Training.

A. ~~Employers with hazards or job tasks classified as very high, high, or medium exposure risk at a place of employment shall provide training on the hazards and characteristics of the SARS-CoV-2 virus and COVID-19 disease to all employees working at the place of employment regardless of employee risk classification.~~ The following employers shall provide training on the hazards and characteristics of the SARS-CoV-2 virus and COVID-19 disease to employees working at the place of employment :

1. Employers covered by 16VAC25-220-50; and

2. Employers covered by 16VAC25-220-60.

Employers may provide fully vaccinated employees with written information meeting the requirements of subsection 16VAC25-220-80 F in lieu of training. Where applicable, ~~The~~ the training program shall enable each employee to recognize the hazards of the SARS-CoV-2 virus and signs and symptoms of COVID-19 disease and shall train each employee in the procedures to be followed in order to minimize these hazards.

B. The training required under subsection A of this section shall include:

1. The requirements of this standard;

2. The mandatory and non-mandatory provisions in any applicable CDC guidelines or Commonwealth of Virginia guidance documents the employer is complying with, if any, in lieu of a provision of this ~~standard~~ chapter as provided for in 16VAC25-220-10 E~~, F, and G~~;

3. The characteristics and methods of transmission of the SARS-CoV-2 virus;

4. The signs and symptoms of COVID-19 disease;

5. Risk factors for severe COVID-19 illness including underlying health conditions and advancing age;

6. Awareness of the ability of persons pre-symptomatically and asymptomatically infected with SARS-CoV-2 to transmit the SARS-CoV-2 virus;

7. Safe and healthy work practices, including, but not limited to, physical distancing, the wearing of face coverings, disinfection procedures, disinfecting frequency, ventilation, noncontact methods of greeting, etc.;

8. Personal protective equipment (PPE):

a. When PPE is required;

b. What PPE is required;

c. How to properly don, doff, adjust, and wear PPE;

d. The limitations of PPE;

e. The proper care, maintenance, useful life, and disposal of PPE;

f. Strategies to extend PPE usage during periods when supplies are not available and no other options are available for protection, as long as the extended use of the PPE does not pose any increased risk of exposure. The training to extend PPE usage shall include the conditions of extended PPE use, inspection criteria of the PPE to determine whether it can or cannot be used for an extended period, and safe storage requirements for PPE used for an extended period; and

g. Heat-related illness prevention including the signs and symptoms of heat-related illness associated with the use of COVID-19 PPE and face coverings;

9. The anti-discrimination provisions in 16VAC25-220-90; and

10. The employer's Infectious Disease Preparedness and Response Plan, where applicable.

C. Employers covered by 16VAC25-220-50 shall verify compliance with 16VAC25-220-80 A by preparing a written certification record for ~~those~~ employees ~~exposed to hazards or job tasks classified as very high, high, or medium exposure risk levels~~ trained in accordance with this section.

1. The written certification record shall contain:

a. The name or other unique identifier of the employee trained;

b. The trained employee's physical or electronic signature;

c. The date of the training; and

d. The name of the person who conducted the training, or for computer-based training, the name of the person or entity that prepared the training materials.

2. A physical or electronic signature is not necessary if other documentation of training completion can be provided (e.g., electronic certification through a training system, security precautions that enable the employer to demonstrate that training was accessed by passwords and usernames unique to each employee, etc.).

3. If an employer relies on training conducted by another employer, the certification record shall indicate the date the employer determined the prior training was adequate rather than the date of actual training.

4. The latest training or retraining certification shall be maintained.

D. When an employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by 16VAC25-220-80 A, the employer shall retrain each such employee. Circumstances where retraining is required include, but are not limited to, situations where:

1. Changes in the workplace, SARS-CoV-2 virus or COVID-19 disease hazards exposed to, or job tasks performed render previous training obsolete;

2. Changes are made to the employer's Infectious Disease Preparedness and Response Plan; or

3. Inadequacies in an affected employee's knowledge or use of workplace control measures indicate that the employee has not retained the requisite understanding or skill.

E. Employers ~~with hazards or job tasks classified at lower risk~~ not covered by 16VAC25-220-50 or 16VAC25-220-60 shall provide written or oral information to employees exposed to such hazards or engaged in such job tasks on the hazards and characteristics of ~~SARS-COV-2~~ the SARS-Co-V-2 virus, ~~and~~ the signs and symptoms of COVID-19, and measures to minimize exposure. The Department of Labor and Industry shall develop an information sheet containing information on the items listed in subsection F of this section, which an employer may utilize to comply with this subsection.

F. The information required under subsection E of this section shall include at a minimum:

1. The requirements of this ~~standard~~ chapter;

2. The characteristics and methods of transmission of the SARS-CoV-2 virus;

3. The signs and symptoms of COVID-19 disease;

4. The ability of persons pre-symptomatically and asymptomatically infected with SARS-CoV-2 to transmit the SARS-CoV-2 virus;

5. Safe and healthy work practices and control measures, including, but not limited to, physical distancing, the benefits of wearing face coverings, sanitation and disinfection practices; and

6. The anti-discrimination provisions of this ~~standard~~ chapter in 16VAC25-220-90.

16VAC25-220-90. Discrimination against an employee for exercising rights under this ~~standard~~ chapter is prohibited.

A. No person shall discharge or in any way discriminate against an employee because the employee has exercised rights under the safety and health provisions of this ~~standard~~ chapter, Title 40.1 of the Code of Virginia, and implementing regulations under 16VAC25-60-110 for themselves or others.

B. No person shall discharge or in any way discriminate against an employee who voluntarily provides and wears the employee's own personal protective equipment, including, but not limited to, a respirator, face shield, gown, or gloves, provided that the PPE does not create a greater hazard to the employee or create a serious hazard for other employees. In situations where face coverings are not provided by the employer, no person shall discharge or in any way discriminate against an employee who voluntarily provides and wears the employee's own face covering that meets the requirements of this ~~standard~~ chapter, provided that the face covering does not create a greater hazard to the employee or create a serious hazard for other employees. Nothing in this subsection shall be construed to prohibit an employer from establishing and enforcing legally permissible dress code or similar requirements addressing the exterior appearance of personal protective equipment or face coverings.

C. No person shall discharge or in any way discriminate against an employee who raises a reasonable concern about infection control related to the SARS-CoV-2 virus and COVID-19 disease to the employer, the employer's agent, other employees, a government agency, or to the public such as through print, online, social, or any other media.

D. Nothing in this ~~standard~~ chapter shall limit an employee from refusing to do work or enter a location because of a reasonable fear of illness or death. The requirements of 16VAC25-60-110

contain the applicable requirements concerning discharge or discipline of an employee who has refused to complete an assigned task because of a reasonable fear of illness or death.

COMMONWEALTH of VIRGINIA
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VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

PROPOSED AMENDMENTS TO VOSH STANDARD FOR INFECTIOUS DISEASE PREVENTION OF THE SARS-COV-2 WHICH CAUSES COVID-19, AS ADOPTED BY THE BOARD ON JUNE 29, 2021

16VAC25-220

DEPARTMENT STANDARD RESPONSES TO ISSUES RAISED BY PUBLIC COMMENTERS

Background

The Department received 268 written comments through the Virginia Regulatory Townhall for the 30 day written comment period from July 1, 2021 to July 31, 2021.

There were 19 written comments sent directly to the Department during the 30 day written comment period, although a number of those were also posted by the Commenter on the Virginia Regulatory Townhall.

There were 7 oral comments received during the public hearing on August 5, 2021.

Following are Department standard responses to issues raised by public commenters.

1. <u>Ability of VOSH Standard to stay current with CDC guidance.</u>

Many comments appear to be under a misunderstanding about the ability of the Final Permanent Standard (VOSH Standard) to respond to changes in CDC guidance. While it is true that the text of the Final Permanent Standard remains as it was when first adopted effective January 27, 2021, please note that 16VAC25-220-10.E provides:

> E. To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer's actions shall be considered in compliance with this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by a provision of this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard. The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.

Contrary to many commenters stating that the VOSH Standard is inflexible and unable to account for the changing dynamic of the virus and the revised CDC recommendations that have issued, 16VAC25-220-10.E specifically does allow the Department's VOSH Standard to account for revised CDC recommendations which are issued in response to the changing dynamic of the virus.

As an example, in §40, FAQ 55[1] regarding CDC guidance changes for fully vaccinated persons, the Department consulted with the Virginia Department of Health (VDH) and concluded the following within a matter of days of the issuance of the updated CDC guidance on fully vaccinated people:

> As the CDC comes out with revised guidelines for fully vaccinated employees in a public workplace setting, the Department reviews the changes with the Virginia Department of Health (VDH) and addresses any changes in compliance requirements in an FAQ.
>
> The Department and VDH agree that based on the CDC's science-based determination that, with the exceptions previously noted, these FAQs, including §40, FAQs 46 to 57, fully vaccinated non-healthcare employees can safely resume indoor and outdoor workplace duties without wearing a face covering or physically distancing in public indoor settings if the place of employment is in an area of moderate or low COVID-19 transmission. Such activities would be in compliance with and provide employees equivalent protection to 16VAC25-220-40.F, -40.G, -40.H, -60.C.10, and -60.C.11. Face coverings must continue to be worn in public

[1] https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

indoor settings if the place of employment is in an area of substantial or high COVID-19 transmission.

Unlike the states of California and Oregon, for instance, who issued Emergency Temporary Standards (that did not contain language similar to 16VAC25-220-10.E) and later had to convene their regulatory rulemakers to reissue updated regulatory text to reflect CDC changes, Virginia did not have to do so because it could address them within days of CDC changes through interpretative responses to questions asked by the regulated community and employee representatives.

In closing, 16VAC25-220-10.E, has turned out to be a very effective method for the Virginia to deal with "the changing dynamic of the virus and the revised CDC recommendations that have issued"

The Department has issued FAQs addressing the CDC's updates concerning persons who are fully vaccinated (see §10, FAQs 19-22, and §40, FAQs 46-54).

The FAQs can be found at: https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

2. Differences in the way fully vaccinated persons and those who are not fully vaccinated are treated by the CDC and the VOSH Standard.

An employer commenter expressed concerns about employees being treated differently based on their vaccination status. The Department notes that, as many employers and organizations representing employers have requested, the proposed amendments are designed to address updated CDC guidance on the issue. If the employer has concerns about employees being treated differently based on vaccination status, they can legally implement face covering and other safety and health rules for their employees that are more stringent than 16VAC25-220.

On July 9, 2021, the CDC has estimated that ""Preliminary data from several states over the last few months suggest that 99.5% of deaths from COVID-19 in the United States were in unvaccinated people."[2]

"CDC Director Rochelle Walensky said that cases, hospitalizations and deaths from the coronavirus are increasing nationwide, adding that over 97% of new hospitalizations are in patients who are unvaccinated."[3]

The Department has relied heavily on guidance from the CDC and federal OSHA in developing the VOSH Standard because they are the two primary national authorities on infectious disease transmission in the workplace.

[2] https://www.businessinsider.com/us-coronavirus-deaths-nearly-all-among-unvaccinated-cdc-head-2021-7
[3] https://www.usnews.com/news/national-news/articles/2021-07-16/cdc-head-covid-19-becoming-pandemic-of-the-unvaccinated

The CDC has provided detailed guidance on the need for and efficacy of COVID-19 vaccines[4] and what mitigation strategies should be used by persons[5] and businesses[6] to slow the spread of the virus. They have also issued guidance on what precautions should be observed by those who have been fully vaccinated.[7]

As is evident from the recent surge around the nation and in Virginia from the Delta variant poses another significant challenge to the wellbeing of employees and employers:

"On July 27, 2021, CDC released updated guidance on the need for urgently increasing COVID-19 vaccination coverage and a recommendation for everyone in areas of substantial or high transmission to wear a mask in public indoor places, even if they are fully vaccinated. CDC issued this new guidance due to several concerning developments and newly emerging data signals. First is a reversal in the downward trajectory of cases. In the days leading up to our guidance update, CDC saw a rapid and alarming rise in the COVID case and hospitalization rates around the country.

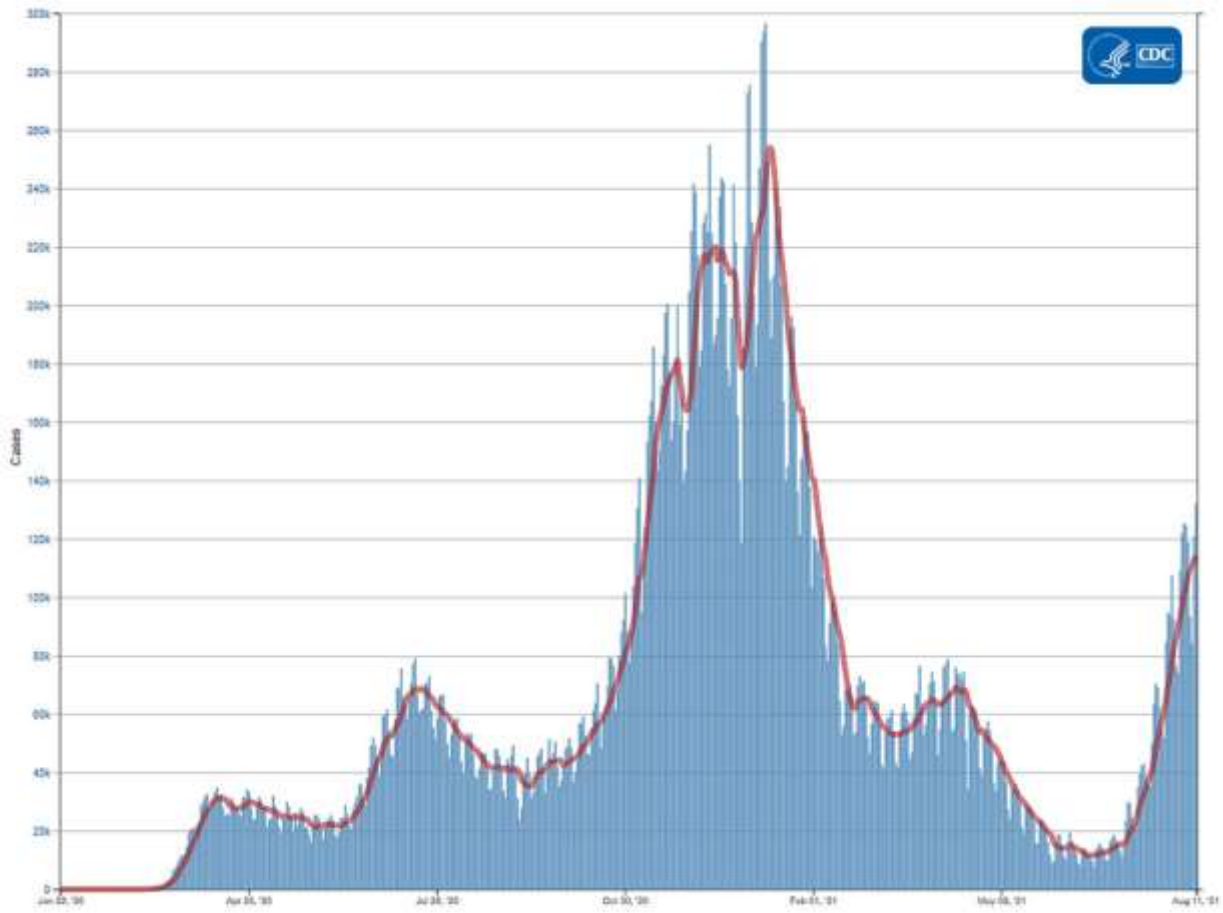
- In late June, our 7-day moving average of reported cases was around 12,000. On July 27, the 7-day moving average of cases reached over 60,000. This case rate looked more like the rate of cases we had seen before the vaccine was widely available.

  [As of August 11, 2021, "the current 7-day moving average of daily new cases (114,190) increased 18.4% compared with the previous 7-day moving average (96,454). The current 7-day moving average is 66.3% higher compared to the peak observed on July 20, 2020 (68,685). The current 7-day moving average is 65.0% lower than the peak observed on January 10, 2021 (254,023) and is 882.8% higher than the lowest value observed on June 19, 2021 (11,619)."[8]]

Second, new data began to emerge that the Delta variant was more infectious and was leading to increased transmissibility when compared to other variants, even in vaccinated individuals. This includes recently published data from CDC and our public health partners, unpublished surveillance data that will be publicly available in the coming weeks, information included in CDC's updated Science Brief on COVID-19 Vaccines and Vaccination, and ongoing outbreak investigations linked to the Delta variant.

Delta is currently the predominant strain of the virus in the United States."

[4] https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html
[5] https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html
[6] https://www.cdc.gov/coronavirus/2019-ncov/community/workplaces-businesses/index.html
[7] https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html
[8] https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html



USA Today, August 19, 2021, "Vaccine effectiveness declines over time, studies say"[9]

> Protection provided by COVID-19 vaccines declines over time, **but protection against the most severe effects of the disease — including hospitalization and death — remains strong**, according to three studies published Wednesday by the Centers for Disease Control and Prevention. (Emphasis added).

Morbidity and Mortality Weekly Report (MMWR), August 18, 2021, "Sustained Effectiveness of Pfizer-BioNTech and Moderna Vaccines Against COVID-19 Associated Hospitalizations Among Adults — United States, March–July 2021"[10]

> In a multistate network that enrolled adults hospitalized during March–July 2021, effectiveness of 2 doses of mRNA vaccine against COVID-19–associated hospitalization was sustained over a follow-up period of 24 weeks (approximately 6 months). These findings of sustained VE were consistent among subgroups at

[9] https://www.usatoday.com/story/news/health/2021/08/19/covid-vaccine-mask-mandates-biden-administration/8189622002/
[10] https://www.cdc.gov/mmwr/volumes/70/wr/mm7034e2.htm?s_cid=mm7034e2_w

highest risk for severe outcomes from COVID-19, including older adults, adults with three or more chronic medical conditions, and those with immunocompromising conditions. Overall VE in adults with immunocompromising conditions was lower than that in those without immunocompromising conditions but was sustained over time in both populations.

These data provide evidence for sustained high protection from severe COVID-19 requiring hospitalization for up to 24 weeks among fully vaccinated adults, which is consistent with data demonstrating mRNA COVID-19 vaccines have the capacity to induce durable immunity, particularly in limiting the severity of disease. Alpha variants were the predominant viruses sequenced, although Delta variants became dominant starting in mid-June, consistent with national surveillance data (8). Because of limited sequenced virus, Delta-specific VE was not assessed. VE was similar during June–July when circulation of Delta increased in the United States compared with VE during March–May when Alpha variants predominated, although further surveillance is needed.

3. Limitations on the use of the general duty clause.

Va. Code §40.1-51(a), otherwise known as the "general duty clause" (the Virginia equivalent to §5(a)(1)[11] of the OSH Act of 1970), can be used to address some SARS-CoV-2 or COVID-19 hazards, but other hazards and mitigation efforts cannot be so addressed (see below). Va. Code §40.1-51(a) provides that:

> "It shall be the duty of every employer to furnish to each of his employees safe employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees…."

While Congress intended that the primary method of compliance and enforcement under the OSH Act of 1970 would be through the adoption of occupational safety and health standards[12], it also provided the general duty clause as an enforcement tool that could be used in the absence of an OSHA (or VOSH) regulation.

As is evident from the wording of the general duty statute, it does not directly address the issue of SARS-CoV-2 or COVID-19 related hazards. While preferable to no enforcement tool at all, the general duty clause does not provide either the regulated community, employees, or the VOSH Program with substantive and consistent requirements on how to reduce or eliminate SARS-CoV-2 or COVID-19 related hazards.

Federal case law has established that the general duty clause can only be used to address "serious" recognized hazards to which employees of the cited employer are exposed through reference to such things as national consensus standards, manufacturer's requirements, requirements of the Centers for Disease Control (CDC), or an employer's safety and health rules. Other than serious hazards cannot be addressed by the general

[11] https://www.osha.gov/laws-regs/oshact/section_5, 29 U.S.C. § 654(a)(1).
[12] *The Law of Occupational Safety and Health,* Nothstein, 1981, page 259.

duty clause.

One limitation on the use of the general duty clause can result in unfortunate outcomes worksites with multiple employers. For instance, a general duty clause violation can only be issued to an employer whose own employees were exposed to the alleged hazard.[13] In the context of a COVID-19 situation, consider a subcontractor ("subcontractor one") who sends one employee to a multi-employer worksite who is COVID-19 positive and knowingly allows that employee to work around disease free employees of another subcontractor ("subcontractor two"), which results in the transmission of the disease to one or more of the second contractors' employees.

In such a situation, because no uninfected employees of subcontractor one were exposed to the disease at the worksite, the contractor who created the hazard could not be issued a general duty violation or accompanying monetary penalty.

Finally, in the context of the COVID-19 pandemic, the primary problem with the use of the general duty clause is the inability to use it to enforce any national consensus standard, manufacturer's requirements, CDC recommendations, or employer safety and health rules which use "should," "may," "it is recommended," and similar non-mandatory language.[14]

4. Why are previously infected persons with COVID-19 anti-bodies (aka "natural immunity") not treated the same by the CDC and the VOSH Standard as those persons who are fully vaccinated?

It continues to remain the CDC's position that persons who have previously have COVID-19 should get vaccinated[15] "because experts do not yet know how long you are protected from getting sick again after recovering from COVID-19." In addition, "Studies have shown that vaccination provides a strong boost in protection in people who have recovered from COVID-19."

A recent study[16] published in the CDC's Morbidity and Mortality Weekly Report on August 13, 2021 found that:

> Although laboratory evidence suggests that antibody responses following COVID-19 vaccination provide better neutralization of some circulating variants than does natural infection, few real-world epidemiologic studies exist to support the benefit of vaccination for previously infected persons. This report details the findings of a case-

[13] https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\181\GDoc_DOLI_5354_v6.pdf, VOSH Field Operations Manual (FOM), Chapter 10, page 18)

[14]" Courts and the [Occupational Safety and Health Review] Commission have held that OSHA must define an alleged hazard in such a way as to give the employer fair notice of its obligations under the OSH Act. In *Ruhlin Co.* [*Ruhlin Co.,* 21 OSH Cases 1779], the Commission held that the employer 'lacked fair notice that it could have an obligation under section 5(a)(1) to require its employees to wear high visibility vests.' The Commission found that a May 2004 interpretive letter by OSHA refers to a provision of the Federal Highway Administration manual which contained optional, not mandatory language."

[15] https://www.cdc.gov/coronavirus/2019-ncov/vaccines/prepare-for-vaccination.html

[16] https://www.cdc.gov/mmwr/volumes/70/wr/mm7032e1.htm

control evaluation of the association between vaccination and SARS-CoV-2 reinfection in Kentucky during May–June 2021….

….

Among Kentucky residents infected with SARS-CoV-2 in 2020, vaccination status of those reinfected during May–June 2021 was compared with that of residents who were not reinfected. In this case-control study, being unvaccinated was associated with 2.34 times the odds of reinfection compared with being fully vaccinated.

5. <u>Permanence of the standard.</u>

Some commenters raised concerns about the standard being "permanent". The use of the word "permanent" in reference to the Standard reflects the fact that, if adopted, the Standard does not currently have a date on which it would expire. However, the Board has the authority to amend or repeal the Standard as the workplace hazards associated with the SARS-CoV-2 virus and COVID-19 disease evolve and eventually lessen. Va. Code § 40.1-22.

6. DOLI should not be regulating COVID-19 in the workplace.

The VOSH program has clear statutory and regulatory jurisdiction over workplace safety and health issues in the Commonwealth, including the potential for spread of infectious diseases among employees and employers, and when those employees and employers are potentially exposed to other persons who may be carriers of the infectious diseases (patients, customers, independent contractors, etc.).

There is substantial scientific evidence and infection, hospitalization and death statistics that support the conclusion that SARS-CoV-2 presents a danger to employees in the workplace.

It is the Department's position that the danger posed to employees and employers by the SARS-CoV-2 virus and COVID-19 disease are necessary and appropriate to regulate. The number of COVID-19 daily infections in Virginia and the United States continue to support the conclusion of ongoing widespread community transmission of the virus, particularly the Delta variant, and the continuing possibility of the introduction of SARS-CoV-2 into Virginia's workplaces for many months to come. While highly effective vaccines against the disease are widely available at no cost, there is still a considerable percentage of the population nationally and in Virginia that is not fully vaccinated.

It is the Department's position that the VOSH Standard remains an important enforcement tool to reduce or eliminate the spread of the virus in the workplace and assures that similarly situated employees and employers exposed to the same or even more serious hazards or job task should all be provided the same basic level of safety and health protections.

The Department also believes that the VOSH Standard ultimately helps businesses to grow and bring customers back when those customers see that employers are providing employees with appropriate protections required by the Standard from SARS-CoV-2. If

customers don't feel safe because employees don't feel safe, it will be hard for a business to prosper in a situation where there is ongoing community spread.

While the Virginia Department of Health (VDH) has some statutory and regulatory responsibilities in certain industries (restaurant permitting, temporary labor camp permitting, nursing home licensing, etc.), its primary focus is public safety, customer safety and patient safety. VDH has very limited and in some cases no enforcement options when it comes to requiring many of Virginia's industries to limit the spread of SARS-CoV-2 among employees and employers in the workplace.

The Department notes that the VOSH Standard provides flexibility to businesses through 16VAC25-220-10.E which provides that "To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID-19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer's actions shall be considered in compliance with this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-COV-2 and COVID19 related hazards or job tasks addressed by this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard."

7. Commenter's statements expressing a refusal to wear face coverings.

With regard to the efficacy of face masks/face coverings, the CDC states:[17]

"SARS-CoV-2 infection is transmitted predominately by inhalation of respiratory droplets generated when people cough, sneeze, sing, talk, or breathe. CDC recommends community use of masks, specifically non-valved multi-layer cloth masks, to prevent transmission of SARS-CoV-2. Masks are primarily intended to reduce the emission of virus-laden droplets ("source control"), which is especially relevant for asymptomatic or presymptomatic infected wearers who feel well and may be unaware of their infectiousness to others, and who are estimated to account for more than 50% of transmissions.1,2 Masks also help reduce inhalation of these droplets by the wearer ("filtration for wearer protection"). The community benefit of masking for SARS-CoV-2 control is due to the combination of these effects; individual prevention benefit increases with increasing numbers of people using masks consistently and correctly.

Source Control to Block Exhaled Virus

Multi-layer cloth masks block release of exhaled respiratory particles into the environment,3-6 along with the microorganisms these particles carry.7,8 Cloth masks not only effectively block most large droplets (i.e., 20-30 microns and larger)9 but they can also block the exhalation of fine droplets and particles (also often referred to as aerosols) smaller than 10 microns ;3,5 which increase in number with the volume of speech10-12 and specific types of phonation.13 Multi-layer cloth masks can both block

[17] https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/masking-science-sars-cov2.html

up to 50-70% of these fine droplets and particles3,14 and limit the forward spread of those that are not captured.5,6,15,16 Upwards of 80% blockage has been achieved in human experiments that have measured blocking of all respiratory droplets,4 with cloth masks in some studies performing on par with surgical masks as barriers for source control.

Filtration for Wearer Protection

Studies demonstrate that cloth mask materials can also reduce wearers' exposure to infectious droplets through filtration, including filtration of fine droplets and particles less than 10 microns. The relative filtration effectiveness of various masks has varied widely across studies, in large part due to variation in experimental design and particle sizes analyzed. Multiple layers of cloth with higher thread counts have demonstrated superior performance compared to single layers of cloth with lower thread counts, in some cases filtering nearly 50% of fine particles less than 1 micron .14,17-29 Some materials (e.g., polypropylene) may enhance filtering effectiveness by generating triboelectric charge (a form of static electricity) that enhances capture of charged particles18,30 while others (e.g., silk) may help repel moist droplets31 and reduce fabric wetting and thus maintain breathability and comfort. In addition to the number of layers and choice of materials, other techniques can improve wearer protection by improving fit and thereby filtration capacity. Examples include but are not limited to mask fitters, knotting-and-tucking the ear loops of medical procedures masks, using a cloth mask placed over a medical procedure mask, and nylon hosiery sleeves."

To the extent that the commenters who opposed a mandatory face covering requirement can be considered to represent any significant percentage of people living, working or traveling through Virginia, their views expressing a refusal to wear masks in public or business settings, unintentionally strengthens the case for a face covering (or other personal protective equipment and respiratory protection equipment) requirement in the Standard.

The stated commenters bolster the credibility of research presented to the Board by the VOSH during the adoption process for the VOSH Standard and the Emergency Temporary Standard (ETS), that employees will face a higher risk of virus exposure in the coming months because a certain segment of the population will refuse to wear face coverings or observe physical distancing of at least 6 feet when interacting with employees.

8. Applicability of HIPAA.

The Health Insurance Portability and Accountability Act (HIPAA) applies to "covered entities" and "business associates," and in most cases does not apply to employers. Accordingly, the patient privacy protections contained in HIPAA do not apply to employers who ask employees if they have received the COVID-19 vaccine and are fully vaccinated or require employees to show proof of full vaccination. For further information on HIPAA see: https://www.hhs.gov/hipaa/for-individuals/employers-health-information-workplace/index.html

9. Constitutionality of the VOSH Standard.

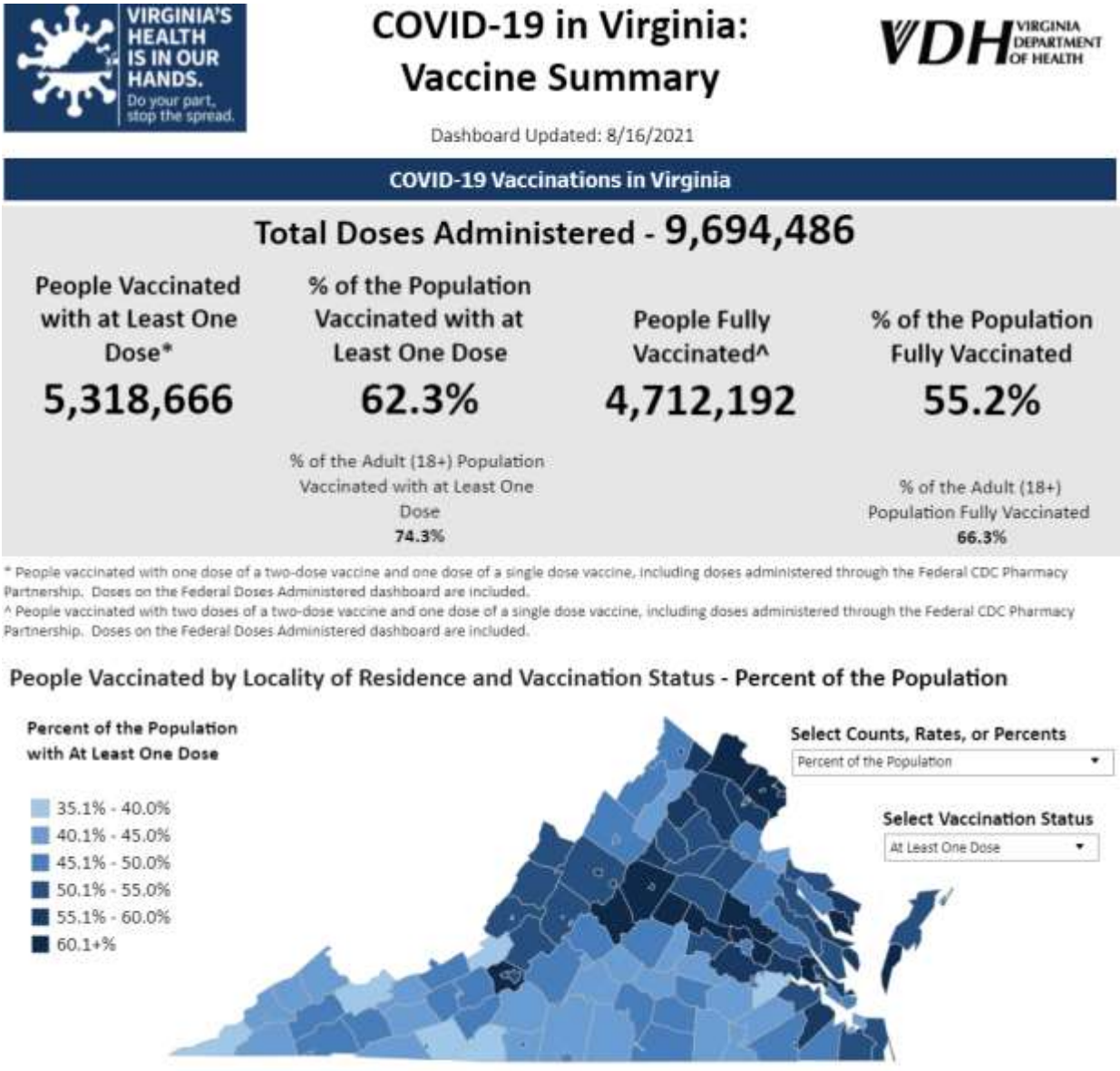
The constitutionality of the VOSH Standard was challenged in Richmond Circuit Court and upheld (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Order Granting Motion to Dismiss, March 4, 2021). The case is on appeal to the Virginia Court of Appeals (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Notice of Appeal, March 31, 2021).

10. Current statistics on COVID-19 in Virginia.

As of August 16, 2021:

55.2% of the Virginia population is fully vaccinated. 66.3% of the adult Virginia population is fully vaccinated. 62.3% of the Virginia populations is vaccinated with at least one dose of the vaccine. [18]

[18] https://www.vdh.virginia.gov/coronavirus/covid-19-vaccine-summary/

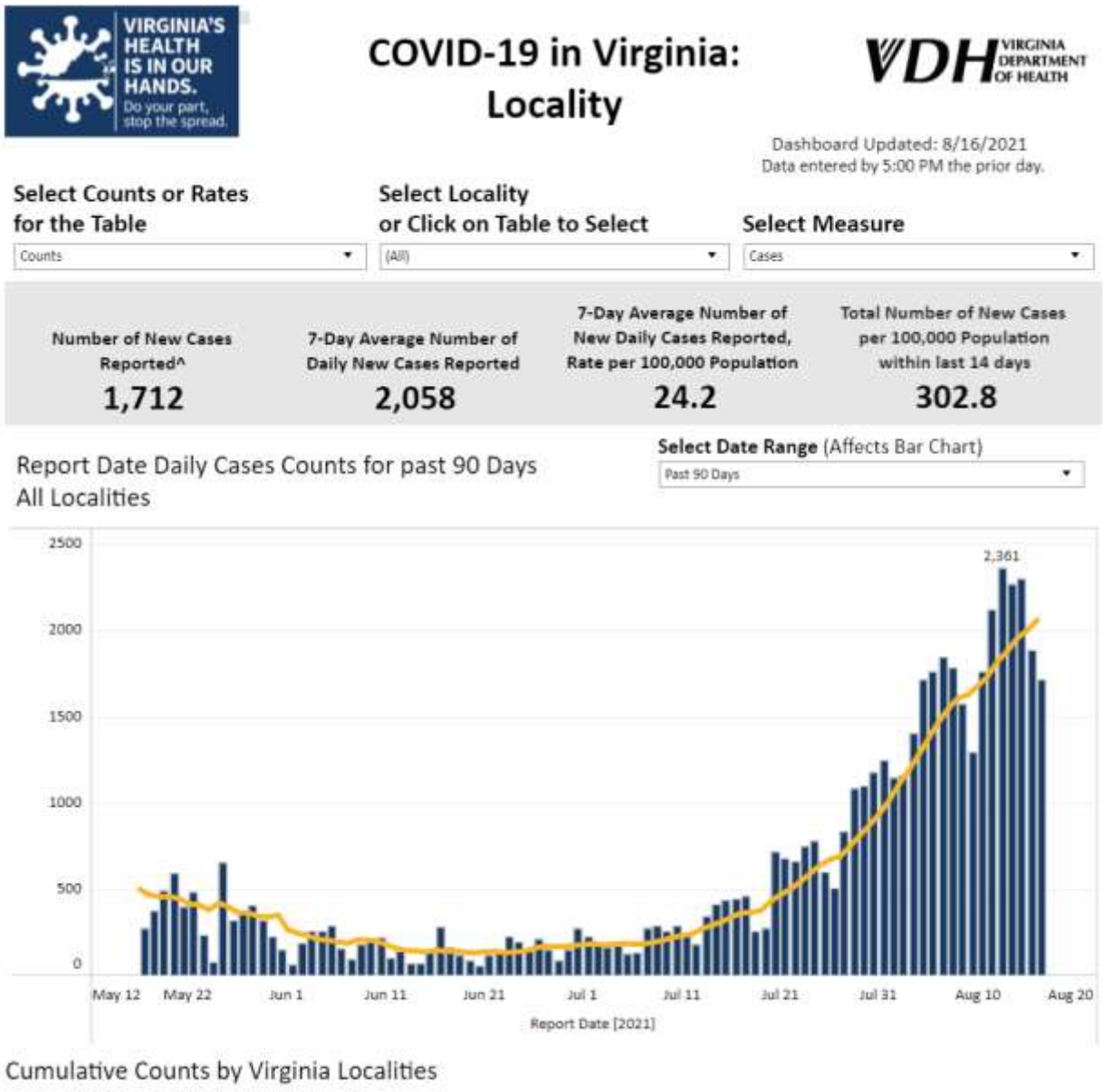


The current 7-day positivity rate PCR only in Virginia is 8.2%.[19]

The 7-day average of number of new cases reported in Virginia is 2,058.

As of August 16, 2021:

[19] https://www.vdh.virginia.gov/coronavirus/covid-19-in-virginia/



11. Current CDC national statistics on COVID-19.

As of August 11, 2021:[20]

SARS-CoV-2 Variants

Multiple variants of the virus that causes COVID-19 are circulating globally, including within the United States. Currently, four variants are classified as a variant of concern (VOC). Nowcast estimates* of COVID-19 cases caused by these VOCs for the week ending August 7 are summarized here. Nationally, the combined proportion of cases attributed to Delta (B.1.617.2, AY.1, AY.2, AY.3) is estimated to increase to 97.4%; Alpha (B.1.1.7) proportion is estimated to decrease to 0.9%; Gamma (P.1) proportion is estimated to decrease to 0.5%; and Beta (B.1.351) is estimated to be less than 0.1%.

[20] https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html

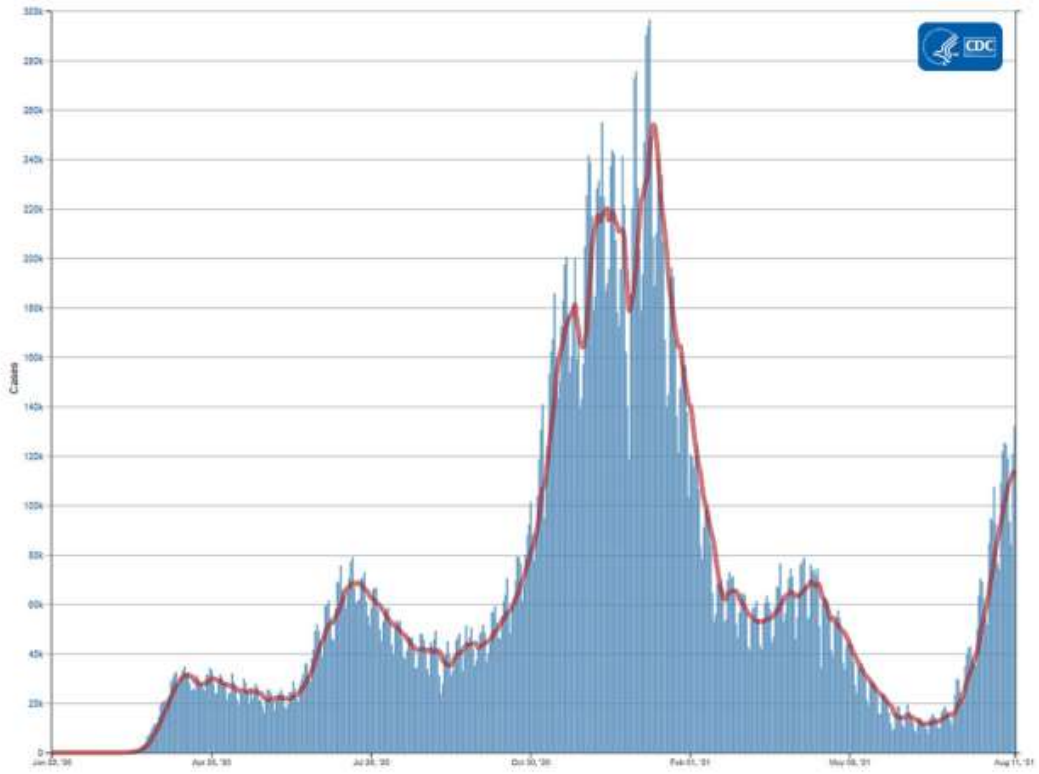
Nowcast estimates that Delta (B.1.617.2, AY.1, AY.2, and AY.3) will continue to be the predominant variant circulating in all 10 HHS regions. Alpha (B.1.1.7) is estimated to be 1.6% or less in all HHS regions. Gamma (P.1) is estimated to be 1.2% or less in all HHS regions; and Beta (B.1.351) is estimated to be less than 0.1% in all HHS regions.

Reported Cases

The current 7-day moving average of daily new cases (114,190) increased 18.4% compared with the previous 7-day moving average (96,454). The current 7-day moving average is 66.3% higher compared to the peak observed on July 20, 2020 (68,685). The current 7-day moving average is 65.0% lower than the peak observed on January 10, 2021 (254,023) and is 882.8% higher than the lowest value observed on June 19, 2021 (11,619). A total of 36,268,057 COVID-19 cases have been reported as of August 11.

Daily Trends in COVID-19 Cases in the United States Reported to CDC

7-Day moving average



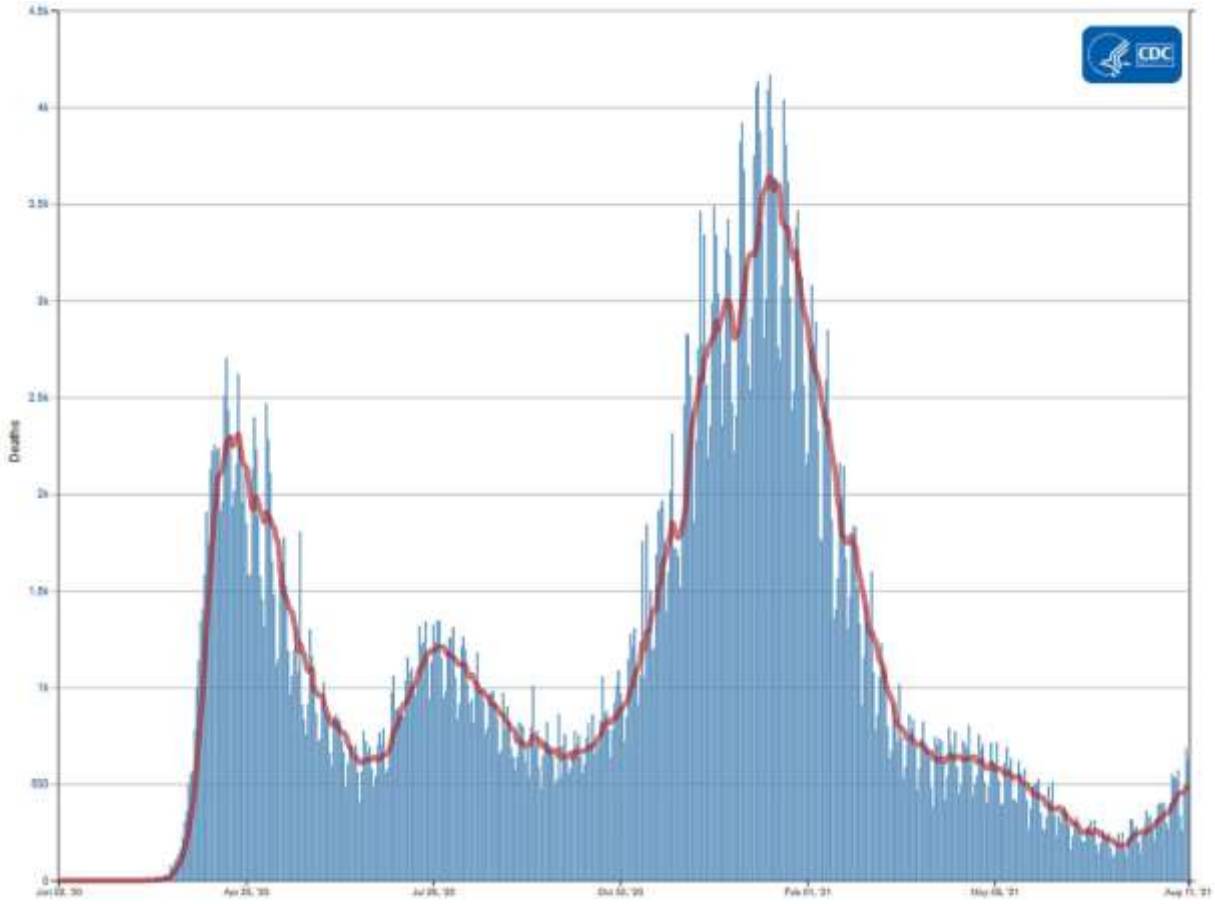
Deaths

The current 7-day moving average of new deaths (492) has increased 21.0% compared with the previous 7-day moving average (407). The current 7-day moving average is 59.3% lower compared to the peak observed on August 2, 2020 (1,210). The current 7-day moving average is 86.5% lower than the peak observed on January 13, 2021 (3,640)

and is 170.4% higher than the lowest value observed on July 10, 2021 (182). As of August 11, a total of 617,096 COVID-19 deaths have been reported in the United States.

Daily Trends in Number of COVID-19 Deaths in the United States Reported to CDC

7-Day moving average

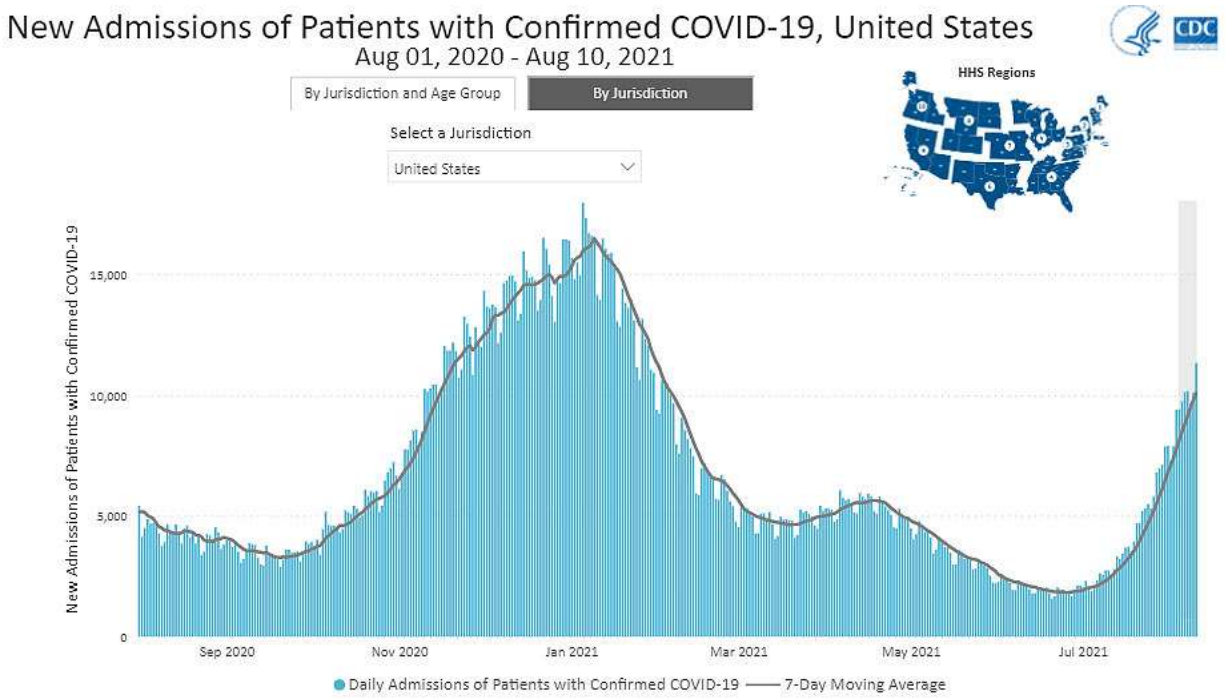


Hospitalizations

New Hospital Admissions

The current 7-day average for August 4–August 10 was 10,072. This is a 29.6% increase from the prior 7-day average (7,771) from July 28–August 3. The 7-day moving average for new admissions has consistently increased since June 25, 2021. New admissions of patients with confirmed COVID-19 are currently at their highest levels since the start of the pandemic in Florida, Louisiana, and Oregon.

Daily Trends in Number of New COVID-19 Hospital Admissions in the United States



Vaccinations

The U.S. COVID-19 Vaccination Program began December 14, 2020. As of August 12, 353.9 million vaccine doses have been administered. Overall, about 196.5 million people, or 59.2% of the total U.S. population, have received at least one dose of vaccine. About 167.4 million people, or 50.4% of the total U.S. population, have been fully vaccinated.* As of August 12, the 7-day average number of administered vaccine doses reported (by date of CDC report) to CDC per day was 699,068, a 0.03% decrease from the previous week.

CDC's COVID Data Tracker Vaccination Demographic Trends tab shows vaccination trends by age group. As of August 12, 90.6% of people ages 65 or older have received at least one dose of vaccine and 80.6% are fully vaccinated. Over two-thirds (71.5%) of people ages 18 or older have received at least one dose of vaccine and 61.3% are fully vaccinated. For people ages 12 or older, 69.2% have received at least one dose of vaccine and 59% are fully vaccinated.

12. <u>Operation Warp Speed.</u>

The Trump Administration initiated Operation Warp Speed to combat the spread of the SARS-CoV-2 virus and the initiative has resulted in significant reductions in U. S. deaths, hospitalizations, and long term illnesses. Per the Government Accounting Office "Operation Warp Speed (OWS)—a partnership between the Departments of Health and Human Services (HHS) and Defense (DOD)—aimed to help accelerate the development of a COVID-19 vaccine. GAO found that OWS and vaccine companies adopted several strategies to accelerate vaccine development and mitigate risk. For example, OWS selected vaccine candidates that use different mechanisms to stimulate an immune response (i.e., platform technologies; see figure). Vaccine companies also took steps,

such as starting large-scale manufacturing during clinical trials and combining clinical trial phases or running them concurrently. Clinical trials gather data on safety and efficacy, with more participants in each successive phase (e.g., phase 3 has more participants than phase 2).

....

As of January 30, 2021, five of the six OWS vaccine candidates have entered phase 3 clinical trials, two of which—Moderna's and Pfizer/BioNTech's vaccines—have received an emergency use authorization (EUA) from the Food and Drug Administration (FDA). For vaccines that received EUA, additional data on vaccine effectiveness will be generated from further follow-up of participants in clinical trials already underway before the EUA was issued.

Technology readiness. GAO's analysis of the OWS vaccine candidates' technology readiness levels (TRL)—an indicator of technology maturity— showed that COVID-19 vaccine development under OWS generally followed traditional practices, with some adaptations. FDA issued specific guidance that identified ways that vaccine development may be accelerated during the pandemic. Vaccine companies told GAO that the primary difference from a non-pandemic environment was the compressed timelines. To meet OWS timelines, some vaccine companies relied on data from other vaccines using the same platforms, where available, or conducted certain animal studies at the same time as clinical trials. However, as is done in a non-pandemic environment, all vaccine companies gathered initial safety and antibody response data with a small number of participants before proceeding into large-scale human studies (e.g., phase 3 clinical trials). The two EUAs issued in December 2020 were based on analyses of clinical trial participants and showed about 95 percent efficacy for each vaccine. These analyses included assessments of efficacy after individuals were given two doses of vaccine and after they were monitored for about 2 months for adverse events.

https://www.gao.gov/products/gao-21-319

13. Children.

The VOSH Standard does not apply to children unless they are employed.

14. Are deaths linked to the COVID-19 vaccines?

Reports of death after COVID-19 vaccination are rare. More than 351 million doses of COVID-19 vaccines were administered in the United States from December 14, 2020, through August 9, 2021. During this time, VAERS received 6,631 reports of death (0.0019%) among people who received a COVID-19 vaccine. FDA requires healthcare providers to report any death after COVID-19 vaccination to VAERS, even if it's unclear whether the vaccine was the cause. Reports of adverse events to VAERS following vaccination, including deaths, do not necessarily mean that a vaccine caused a health problem. A review of available clinical information, including death certificates, autopsy, and medical records, has not established a causal link to COVID-19 vaccines. However,

recent reports indicate a plausible causal relationship between the J&J/Janssen COVID-19 Vaccine and TTS, a rare and serious adverse event—blood clots with low platelets—which has caused deaths.

https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/adverse-events.html

15. Description of how DOLI and VDH apply 16VAC25-220-10.E.

16VAC25-220-10.E provides:

E. To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer's actions shall be considered in compliance with this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by a provision of this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard. **The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.** (Emphasis added).

The intent of 10.E is to give employers the option to either comply with the requirements of the VOSH Standard or demonstrate as an alternative that they have complied with recommendations in a CDC publication addressing hazards, issues, requirements, etc., that are also addressed in a specific provision of the VOSH Standard.

In order for an employer to take advantage of 10.E, it has to demonstrate that it is complying with language in CDC publications that could be considered both "mandatory" (e.g., "shall", "will", etc.) and "non-mandatory" ("it is recommended that", "should", "may", "encouraged", etc.). In other words, an employer would have to comply with a CDC "recommended" practice even if the CDC publication doesn't "require" it.

The Department's interpretation of 10.E and language in CDC publications will otherwise follow normal rules of regulatory/statutory construction. For instance, if the CDC publication language offers options for an employer to address a hazard, issue, etc., that is also addressed by the VOSH Standard (e.g., the employer "should" do "this", or "that", or "the other"), then the employer is required to implement at least one of the options in order for §10.E to apply.

An employer will not be subject to citation or penalty if they comply with the requirements of the VOSH Standard, even if a CDC publication were to include a more stringent requirement or "recommendation" than is provided for in the VOSH Standard.

The VOSH Standard does not require employers to comply with any CDC publication language that is solely directed at assuring the safety and health of the general public. The focus of the VOSH Standard is employee safety and health, and the focus of §10.E is only CDC publications' language that addresses employee safety and health, and occupationally-related hazards, issues, mitigation efforts, etc.

Here is an example of application of 10.E to language in Section 3 of the current CDC Guidance[21] for Institutions of Higher Education (IHEs):

> "Administrators should encourage people who are not fully vaccinated and those who might need to take extra precautions to wear a mask consistently and correctly:
>
> Indoors. Mask use is recommended for people who are not fully vaccinated including children.
>
> Answer: The Department considers use of the phrases "Administrators should encourage" and "Mask use is recommended" to be non-mandatory language that must be actually complied with under 10.E to be considered to provide employees equivalent protection to a provision in the VOSH Standard. This means the phrases will be read as "Administrators shall require" and "Mask use is required."
>
> Accordingly, IHE employees who are not fully vaccinated must wear face coverings when so required under the VOSH Standard. IHE compliance with the CDC Guidance as interpreted by the Department above would provide employees equivalent protection to the VOSH Standard provisions regarding the wearing of face coverings in 16VAC25-220-40.F, -40.G, -40.H, -60.C.10, and -60.C.11.

16. <u>July 27, 2021 CDC updated guidance for fully vaccinated persons.</u>

DOLI updated its Frequently Asked Questions (FAQ) for the VOSH Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220, in response to the CDC's updated guidance issued on July 27, 2021. The CDC update resulted in changes to face mask ("face covering" in the VOSH Standard) recommendations for fully vaccinated people in public indoor settings in areas with high and substantial COVID-19 transmission rates:

https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

VDH is updating its transmission metrics which can be found at:

https://www.vdh.virginia.gov/coronavirus/key-measures/pandemic-metrics/

See §40, FAQs 54 and 55, which were directly impacted by the updated CDC guidance.

The FAQs were the result of a review by DOLI and VDH in accordance with 16VAC25-220-10.E, which provides in part:

[21] https://www.cdc.gov/coronavirus/2019-ncov/community/colleges-universities/considerations.html

> The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.

Following is a summary of CDC's Morbidity and Mortality Weekly Report (MMWR) of July 30, 2021 titled *Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021*, which resulted in the CDC update:

> Summary of MMWR: "During July 2021, 469 cases of COVID-19 associated with multiple summer events and large public gatherings in a town in Barnstable County, Massachusetts, were identified among Massachusetts residents; vaccination coverage among eligible Massachusetts residents was 69%. Approximately three quarters (346; 74%) of cases occurred in fully vaccinated persons.... Overall, 274 (79%) vaccinated patients with breakthrough infection were symptomatic. Among five COVID-19 patients who were hospitalized, four were fully vaccinated; no deaths were reported....[Certain data] might mean that the viral load of vaccinated and unvaccinated persons infected with SARS-CoV-2 is also similar. However, microbiological studies are required to confirm these findings."

https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm

17. VOSH Consultation Services.

VOSH Consultation Services are available to all State and Local Government employers, regardless of size. In addition, VOSH Consultations Services have three Consultant positions that can provide services to private sector employers, regardless of size.

https://www.doli.virginia.gov/vosh-programs/consultation/

18. Employee misconduct defense.

The "Employee Misconduct" affirmative defense to VOSH citations and penalties is codified in VOSH regulation 16 VAC 25-60-260.B and C:[22]

> B. A citation issued under subsection A of this section to an employer who violates any VOSH law, standard, rule, or regulation shall be vacated if such employer demonstrates that:
>
> 1. Employees of such employer have been provided with the proper training and equipment to prevent such a violation;
>
> 2. Work rules designed to prevent such a violation have been established and adequately communicated to employees by such employer and have been effectively enforced when such a violation has been discovered;
>
> 3. The failure of employees to observe work rules led to the violation; and

[22] https://law.lis.virginia.gov/admincode/title16/agency25/chapter60/section260

4. Reasonable steps have been taken by such employer to discover any such violation.

C. For the purposes of subsection B of this section only, the term "employee" shall not include any officer, management official, or supervisor having direction, management control, or custody of any place of employment that was the subject of the violative condition cited.

19. <u>Employers can require safety and health protections for employees that exceed VOSH standards.</u>

See §40, FAQ 50: https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

50. IF[23] AN EMPLOYER DETERMINES THAT FULLY VACCINATED EMPLOYEES MUST STILL WEAR FACE COVERINGS AND/OR PHYSICAL DISTANCE WHILE AT WORK, MUST EMPLOYEES COMPLY?

Yes. Va. Code §40.1-51.2(a), rights and duties of employees provides as follows:

(a) It shall be the duty of each employee to comply with all occupational safety and health rules and regulations issued pursuant to this chapter and any orders issued thereunder which are applicable to his own action and conduct.

Employers have the duty to "to furnish to each of his employees safe employment and a place of employment that is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees," Va. Code §40.1-51.1.A; and the right to establish workplace safety and health rules and to enforce them, 16VAC25-60-260.B.

NOTE 1: For the purposes of this guidance, people are considered fully vaccinated for COVID-19 ≥2 weeks after they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna), or ≥2 weeks after they have received a single-dose vaccine (Johnson & Johnson [J&J]/Janssen)±; there is currently no post-vaccination time limit on fully vaccinated status. This guidance can also be applied to COVID-19 vaccines that have been authorized for emergency use by the World Health Organization (e.g. AstraZeneca/Oxford). Unvaccinated people refers to individuals of all ages, including children, that have not completed a vaccination series or received a single-dose vaccine.

However, at this time, there are limited data on vaccine protection in people who are immunocompromised. People with immunocompromising conditions, including those taking immunosuppressive medications (for instance drugs, such as mycophenolate and rituximab, to suppress rejection of transplanted organs or to treat rheumatologic conditions), should discuss the need for personal protective measures with their healthcare provider after vaccination.

[23] https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

Reference: https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

20. Healthcare industry concern about having to comply with the OSHA ETS for most healthcare settings and 16VAC25-220 for healthcare support services not performed in a healthcare setting (e.g., off-site laundry, off-site medical billing); and employees in well-defined hospital ambulatory care settings where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not present.

The commenter is correct that where the OSHA ETS does not apply to the healthcare services and healthcare support systems, 16VAC25-220 applies. The Department notes that it is not uncommon for employers to have to deal with different occupational safety and health standards and regulations depending on the workplaces involved and the hazards present. 16VAC25-220-10.C recognizes this:

> C. This standard is designed to supplement and enhance existing VOSH laws, rules, regulations, and standards applicable directly or indirectly to SARS-CoV-2 virus or COVID-19 disease related hazards such as, but not limited to, those dealing with personal protective equipment, respiratory protective equipment, sanitation, access to employee exposure and medical records, occupational exposure to hazardous chemicals in laboratories, hazard communication, Va. Code §40.1-51.A, etc.

There are many businesses that have departments/divisions that must operate under different OSHA regulations even though the hazard presented is the same (e.g., companies that have two different departments/divisions that have employees exposed to electrical hazards but must either conform to the General Industry or Construction Industry electrical regulations contained in Part 1910.301, et seq. and Part 1926.400 et seq.)

In addition, the Department notes that in a number of respects, the OSHA ETS contains provisions that could be considered to be more stringent (i.e. more protective of employees) than corresponding requirements in 16VAC25-220. There is no prohibition against an employer from choosing to comply more stringent regulatory requirements to protect its employees.

With regard to the situation raised by the commenter, such employers can apply the requirements of the OSHA ETS to healthcare support services not performed in a healthcare setting (e.g., off-site laundry, off-site medical billing), and employees in well-defined hospital ambulatory care settings where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not present, without running afoul of the overwhelming majority of the provisions in 16VAC25-220. The one exception that the Department has identified are the notification provisions in 16VAC25-220-40.B.7, which would still have to be complied with.

Finally, following is a summary of the VOSH policy on de minimis violations from the VOSH Field Operations Manual:[24]

5. De Minimis Violation Policy.

   Va. Code §40.1-49.4.A.2[25] provides "The Commissioner may prescribe procedures for calling to the employer's attention *de minimis* violations which have no direct or immediate relationship to safety and health." (Emphasis added).

   The Virginia Occupational Safety and Health (VOSH) Field Operations Manual (FOM)[26] describes the Commissioner's procedures for *de minimis* violations in Chapter 10, pp. 38-39:

   > *De minimis* violations are violations of standards which have no direct or immediate relationship to safety or health. Compliance Officers identifying *de minimis* violations of a VOSH standard shall not issue a citation for that violation, but should verbally notify the employer and make a note of the situation in the inspection case file. The criteria for classifying a violation as *de minimis* are as follows:
   >
   > ....
   > 3. Employer Technically Exceeds Standard.
   >
   > An employer's workplace is at the "state of the art" which is technically beyond the requirements of the applicable standard and provides equivalent or more effective employee safety or health protection.
   >
   > Note: Maximum professional discretion must be exercised in determining the point at which noncompliance with a standard constitutes a de minimis violation.

   The FOM[27] further provides:

   > The Compliance Officer shall discuss all conditions noted during the walkaround considered to be *de minimis*, indicating that such conditions are subject to review by the Regional Safety or Health Director in the same manner as apparent violations but, if finally classified as *de minimis*, will not be included on the citation.

[24] Chapter 5, p. 76. https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\181\GDoc_DOLI_5354_v6.pdf

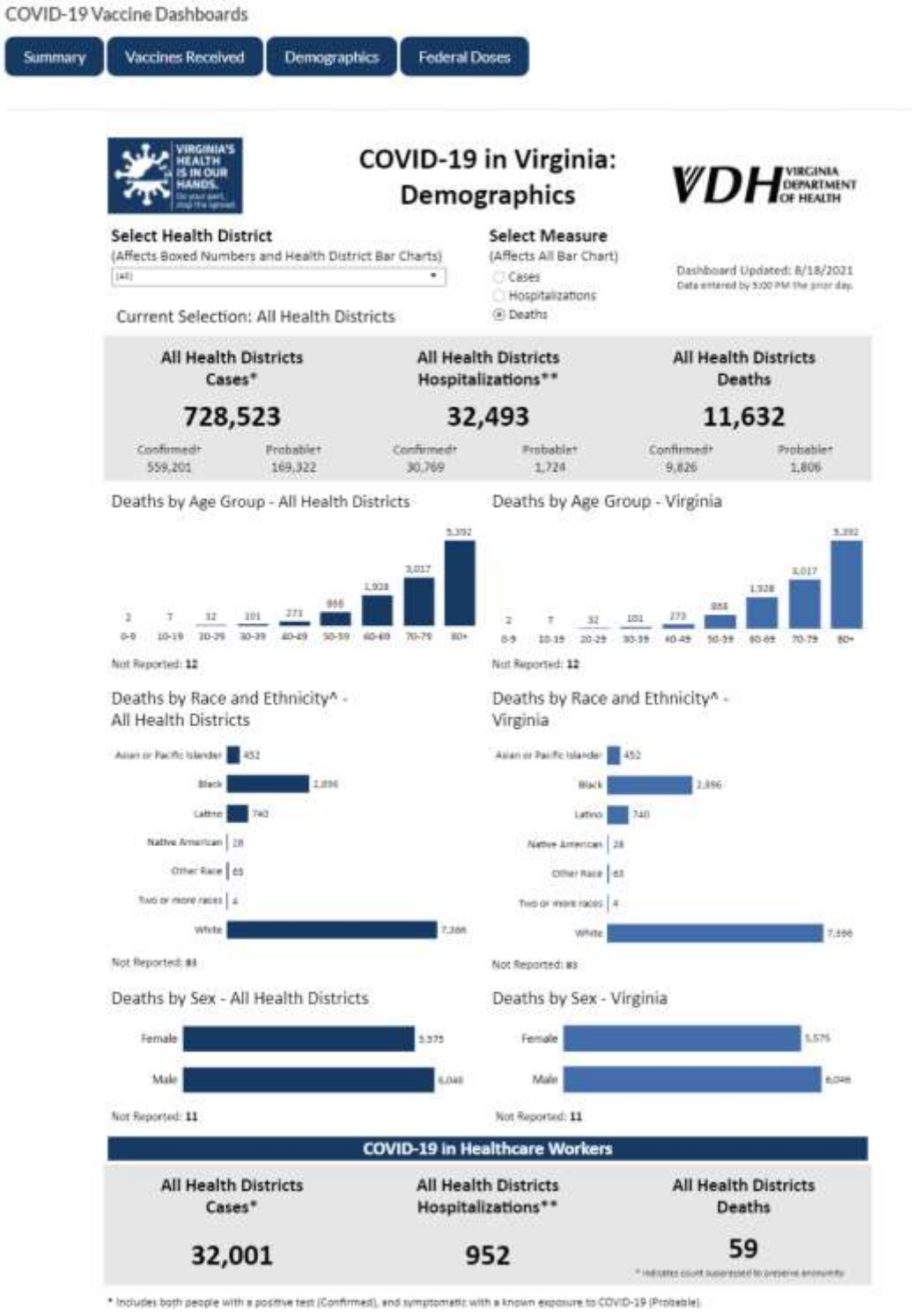
[25] https://law.lis.virginia.gov/vacode/40.1-49.4/

[26] https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\181\GDoc_DOLI_5354_v6.pdf

[27] *Id.* at Chapter 5, p. 76.

21. Virginia Healthcare worker statistics.

As of August 18, 2021, healthcare worker cases in Virginia totaled 32,001, with 952 hospitalizations and 59 deaths.[28]



[28] https://www.vdh.virginia.gov/coronavirus/covid-19-in-virginia/covid-19-in-virginia-demographics/

22. DOLI Recommended revisions to proposed amendments to 16VAC25-220.

The Department of Labor and Industry (DOLI) has consulted with the Virginia Department of Health (VDH) about whether REVISIONS should be recommended to the Board's Proposed Amendments to the VOSH Standard originally adopted on June 29, 2021, in response to the CDC's updated guidance for fully vaccinated people issued on July 27, 2021 (requirement in certain situations for fully vaccinated employees to wear face coverings in areas of substantial or high transmission).

https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

DOLI and VDH are in agreement that some REVISIONS should be recommended to the Board along with the Governor's amendment to 16VAC25-220-10.E.(https://www.doli.virginia.gov/wpcontent/uploads/2021/07/Summary-of-Governor-Northams-Review-of-Proposed-Amendmentsto-16VAC25-220-7.1.2021.pdf).

The Dept. invites the public to comment on the Revised Proposed Amendments to the VOSH Standard by using the Townhall Comment Forum here. The forum will be open for 7 days from August 16, 2021 to August 23, 2021.
https://townhall.virginia.gov/L/ViewNotice.cfm?GNid=1309

23. On multi-employer worksites, can the host employer require subcontractors to meet or exceed VOSH safety and health standard requirements?

With regard to multi-employer worksites and different approaches to employee safety and health taken by subcontractors on a host employer's worksite, first, each employer must comply with the requirements in VOSH standards to protect their own employees. Host employers can establish safety and health work rules for companies it contracts with that meet or exceed VOSH requirements. Such rules are normally included in contractual agreements. The Department recommends the commenter consult with legal counsel about including such language contracts with subcontractors who will be entering the host worksite.

24. Meaning of language in proposed amendment 16VAC25-220-50.A.6.a.

With regard to the commenter's question about employees who are licensed EMTs and application of proposed amendment 16VAC25-220-50.A.6.a, if an employer hires a licensed EMT for the purposes of providing medical assistance to employees, the EMT would be considered a "licensed healthcare provider" under the standard. However, if the employee is a licensed EMT but that designation has no relation to her job duties and that employee provides first aid to another employee on a "good Samaritan" basis, the licensed EMT would not be considered a "licensed healthcare provider."

25. OSHA Emergency Temporary Standard.

On June 21, 2021 Federal OSHA issued an emergency temporary standard (ETS) to protect healthcare and healthcare support service workers from occupational exposure

to COVID-19 in settings where people with COVID-19 are reasonably expected to be present.

On June 29, 2021, the Safety and Health Codes Board (Board) adopted the federal COVID19 Emergency Temporary Standard, 1910.502, et seq., applicable to all settings where any employee provides healthcare services or healthcare support services, with an effective date of August 2, 2021 and which shall expire within six months or when repealed by the Board, whichever occurs first.

The effective date of the ETS as adopted by the Board is August 2, 2021. Virginia employers must comply with all the requirements of the COVID-19 ETS except paragraphs §1910.502 (i), (k) and (n) by August 17, 2021. Employers must comply with paragraphs § 1910.502(i), (k), and (n) by September 1, 2021.

In its motion to adopt the Emergency Temporary Standard, the Safety and Health Codes Board also accepted the recommendation of the Department that:

1. Application of Virginia's 16VAC-25-220, except for 16VAC-25-220-40 B.7.d and e, and 16VAC25-220-90, to such covered employers and employees subject to the standard shall be suspended while the federal COVID-19 Emergency Temporary Standard remains in effect.

2. Should the federal COVID-19 Emergency Temporary Standard, 1910.502, et seq., applicable to settings where any employee provides healthcare services or healthcare support services be later stayed or invalidated by a state or federal court, the provisions of Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, including 16VAC25-220-50, shall immediately apply to such employers and employees in its place with no further action of the Board required.

3. Should the federal COVID-19 Emergency Temporary Standard, 1910.502, et seq., applicable to all settings where any employee provides healthcare services or healthcare support services be later stayed by federal OSHA, or otherwise revoked, repealed, declared unenforceable, or permitted to expire, the provisions of Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, including 16VAC25-220-50, shall immediately apply to such employers and employees in its place with no further action of the Board required. In addition, the Virginia Safety and Health Codes Board shall within 30 days notice a regular, special, or emergency meeting/conduct a regular, special, or emergency meeting to determine whether there is a continued need for Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, or whether it should be maintained, modified, or revoked.

To access the final rule see Occupational Exposure to COVID–19; Emergency Temporary Standard, Interim Final Rule. https://www.govinfo.gov/content/pkg/FR-2021-06-21/pdf/2021-12428.pdf

For Federal OSHA Outreach Materials, see COVID-19 Healthcare ETS Outreach.
https://www.osha.gov/coronavirus/ets

26. How Long Does Vaccine Immunity Last?

USAToday.com, August 19, 2021, "Vaccine effectiveness declines over time, studies say"

> Protection provided by COVID-19 vaccines declines over time, but protection against the most severe effects of the disease — including hospitalization and death — remains strong, according to three studies published Wednesday by the Centers for Disease Control and Prevention.

Morbidity and Mortality Weekly Report (MMWR), August 18, 2021, "New COVID-19 Cases and Hospitalizations Among Adults, by Vaccination Status — New York, May 3–July 25, 2021"[29]

> In this study, current COVID-19 vaccines were highly effective against hospitalization ([vaccine effectiveness] VE >90%) for fully vaccinated New York residents, even during a period during which prevalence of the Delta variant increased from <2% to >80% in the U.S. region that includes New York, societal public health restrictions eased,§§ and adult full-vaccine coverage in New York neared 65%. However, during the assessed period, rates of new cases increased among both unvaccinated and fully vaccinated adults, with lower relative rates among fully vaccinated persons. Moreover, VE against new infection declined from 91.7% to 79.8%. To reduce new COVID-19 cases and hospitalizations, these findings support the implementation of a layered approach centered on vaccination, as well as other prevention strategies.

Morbidity and Mortality Weekly Report (MMWR), August 18, 2021, " Effectiveness of Pfizer-BioNTech and Moderna Vaccines in Preventing SARS-CoV-2 Infection Among Nursing Home Residents Before and During Widespread Circulation of the SARS-CoV-2 B.1.617.2 (Delta) Variant — National Healthcare Safety Network, March 1–August 1, 2021"[30]

> Analysis of nursing home COVID-19 data from NHSN indicated a significant decline in effectiveness of full mRNA COVID-19 vaccination against laboratory-confirmed SARS-CoV-2 infection, from 74.7% during the pre-Delta period (March 1–May 9, 2021) to 53.1% during the period when the Delta variant predominated in the United States. This study could not differentiate the independent impact of the Delta variant from other factors, such as potential waning of vaccine-induced immunity. Further research on the possible impact of both factors on VE among nursing home residents is warranted. Because nursing home residents might remain at some risk for SARS-CoV-2 infection despite vaccination, multipronged COVID-19 prevention strategies, including infection control, testing, and vaccination of nursing home staff members, residents, and visitors are critical.

Medrxiv.org, August 8, 2021, "Comparison of two highly-effective mRNA vaccines for

[29] https://www.cdc.gov/mmwr/volumes/70/wr/mm7034e1.htm?s_cid=mm7034e1_w
[30] https://www.cdc.gov/mmwr/volumes/70/wr/mm7034e3.htm?s_cid=mm7034e3_w

COVID-19 during periods of Alpha and Delta variant prevalence"[31]

> Although clinical trials and real-world studies have affirmed the effectiveness and safety of the FDA-authorized COVID-19 vaccines, reports of breakthrough infections and persistent emergence of new variants highlight the need to vigilantly monitor the effectiveness of these vaccines. Here we compare the effectiveness of two full-length Spike protein-encoding mRNA vaccines from Moderna (mRNA-1273) and Pfizer/BioNTech (BNT162b2) in the Mayo Clinic Health System over time from January to July 2021, during which either the Alpha or Delta variant was highly prevalent. We defined cohorts of vaccinated and unvaccinated individuals from Minnesota (n = 25,589 each) matched on age, sex, race, history of prior SARS-CoV-2 PCR testing, and date of full vaccination.
>
> Both vaccines were highly effective during this study period against SARS-CoV-2 infection (mRNA-1273: 86%, 95%CI: 81-90.6%; BNT162b2: 76%, 95%CI: 69-81%) and COVID-19 associated hospitalization (mRNA-1273: 91.6%, 95% CI: 81-97%; BNT162b2: 85%, 95% CI: 73-93%).
>
> However, in July, the effectiveness against infection was considerably lower for mRNA-1273 (76%, 95% CI: 58-87%) with an even more pronounced reduction in effectiveness for BNT162b2 (42%, 95% CI: 13-62%).

[31] https://www.medrxiv.org/content/10.1101/2021.08.06.21261707v1

JANUARY 10, 2021

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

DRAFT FINAL PERMANENT STANDARD FOR INFECTIOUS DISEASE PREVENTION OF THE SARS-COV-2 WHICH CAUSES COVID-19,

16VAC25-220

DEPARTMENT STANDARD RESPONSES TO ISSUES RAISED

BY PUBLIC COMMENTERS

Background

The Department received 238 written comments through the Virginia Regulatory Townhall for the 30 day written comment period from December 10, 2020 to January 9, 2021.

There were 21 written comments sent directly to the Department during the 30 day written comment period, although a number of those were also posted by the Commenter on the Virginia Regulatory Townhall.

There were 24 oral comments received during the public hearing on January 5, 2020.

Following are Department standard responses to issues raised by public commenters.

1. <u>Pandemic Statistics.</u>

The Department respectfully disagrees with the Commenter's assertion that the pandemic is much less impactful then originally feared. As of January 1, 2021, the pandemic 341,199 deaths have been attributed to COVID-19 in the U.S.[32] and 5,117 in Virginia.[33]

<u>2. Notification to VDH – Reporting of Two or More Cases.</u>

DOLI is recommending to the Board the following revision to 16VAC25-220-40.B.8.d [notification to VDH of positive cases] in the final standard:

> "d. The Virginia Department of Health during a declaration of an emergency by the Governor pursuant to § 44-146.17. Every employer as defined by § 40.1-2 of the Code of Virginia shall report to the Virginia Department of Health (VDH) when the worksite has had **two or more confirmed cases of COVID-19 of its own employees present at the place of employment within a 14-day period testing positive for SARS-CoV-2 virus during that 14-day time period.** Employers shall make such a report in a manner specified by VDH, including name, date of birth, and contact information of each case, within 24 hours of becoming aware of such cases. Employers shall continue to report all cases until the local health department has closed the outbreak. After the outbreak is closed, subsequent identification of two or more confirmed cases of COVID-19 during a declared emergency shall be reported, as above. The following employers are exempt from this provision because of separate outbreak reporting requirements contained in 12VAC5-90-90: any residential or day program, service, or facility licensed or operated by any agency of the Commonwealth, school, child care center, or summer camp;" (Emphasis added).

<u>3. Employer requirement to assess risk exposure for hazards and job tasks.</u>

The Revised Proposed Standard, 16VAC25-220-40.B, provides that:

B. Exposure assessment and determination, notification requirements, and employee access to exposure and medical records.

> 1. Employers shall assess their workplace for hazards and job tasks that can potentially expose employees to the SARS-CoV-2 virus or COVID-19 disease. Employers shall classify each job task according to the hazards employees are potentially exposed to and ensure compliance with the applicable sections of this standard for very high, high, medium, or lower risk levels of exposure. Tasks that are similar in nature and expose employees to the same hazard may be grouped for classification purposes.

The Standard also provides in 16VAC25-220-10.D.1 provides in part:

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[32] https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days

[33] https://www.vdh.virginia.gov/coronavirus/covid-19-in-virginia/

D. Application of this standard to a place of employment will be based on the exposure risk level presented by SARS-CoV-2 virus-related and COVID-19 disease-related hazards present or job tasks undertaken by employees at the place of employment as defined in this standard (i.e., very high, high, medium, and lower risk levels).

1. It is recognized that various hazards or job tasks at the same place of employment can be designated as very high, high, medium, or lower exposure risk for purposes of application of the requirements of this standard.

While employers are required to conduct the risk assessment, that determination is subject to review by the VOSH program as to whether the assessment was conducted in a reasonable fashion in accordance with the requirements of the standard.

4. Board Action in Response to Expiration of the Governor's COVID-19 State of Emergency and Commissioner of Health's COVID-19 Declaration of Public Emergency.

DOLI is recommending to the Board the following revision to 16VAC25-220-20.C in the final standard:

C. Within fourteen (14) days of the expiration of the Governor's COVID-19 State of Emergency and Commissioner of Health's COVID-19 Declaration of Public Emergency, the Virginia Safety and Health Codes Board shall notice a regular, special, or emergency meeting/conduct a regular, special, or emergency meeting to determine whether there is a continued need for the standard.

The new language in 16VAC25-220.C requires the Board to make a "determination" of whether there is continued need for the standard. The Department has identified three "determination" options:

- That there is no continued need for the standard;
- That there is a continued need for the standard with no changes; and
- That there is a continued need for a revised standard.

Regardless of the determination, the Department and Board will provide notice and comment opportunities on any changes to or revocation of the standard.

With regard to the phrase "notice a regular, special, or emergency meeting/conduct a regular, special, or emergency meeting to," the intent of the language is to give the Board the maximum amount of flexibility to "notice" the Board meeting within 14 days even if the Board may not actually meet within 14 days

5. Alternative Diagnosis/Test Based Strategy.

Commenter 87847: The proposed standard requires employees known or to be infected with the SARS-CoV2 virus; not return to work until certain criteria are met, one of those criteria being a minimum of 10 days away from onset of symptoms. Unfortunately, COVID-19 virus signs and symptoms are consistent with several other common illness

or conditions; Flu, common Cold, sinus infections, migraine, allergies, food poisoning, etc.). This standard now eliminates the opportunity for an employee to prove they do not have COVID-19 and allow them return to work.

Department response: The Commenter is incorrect in stating that "This standard now eliminates the opportunity for an employee to prove they do not have COVID-19 and allow them return to work." 16VAC25-220-40.B.4 provides that "Employers shall develop and implement policies and procedures for employees to report when employees are experiencing symptoms consistent with COVID-19, and no alternative diagnosis has been made (e.g., tested positive for influenza).

In addition, §40, FAQ 30 provides some flexibility for employers to use COVID-19 testing in support of an "alternative diagnosis."
https://www.doli.virginia.gov/conronavirus-covid-19-faqs/

30. Can you provide some clarification on return to work and diagnosis requirements under the ETS? We want to isolate and test anyone with signs or symptoms of COVID-19 (defined under the ETS as "Suspected to be infected with SARS-CoV-2 virus"), but if the test comes back negative, we want to rule out COVID-19 as the diagnosis and treat the employee like they have a more common and less dangerous illness. The regulation is not clear on this and reads like we can only return them to work after two tests as if the initial presumption was correct.

16VAC25-220-20 defines the term "Suspected to be infected with SARS-CoV-2 virus" as:

> "a person who has signs or symptoms of COVID-19 but has not tested positive for SARS-CoV-2, and no alternative diagnosis has been made (e.g., tested positive for influenza)."

If an employee HAS HAD "close contact" with a COVID-19 case and developed signs or symptoms, but tested negative for SARS-CoV-2, the employee should remain under quarantine for 14 days after last close contact with the COVID-19 case. Although not defined in the ETS, the Virginia Department of Health (VDH) and the CDC define "close contact" as meaning "you were within 6 feet of someone who has COVID-19 for a total of 15 minutes or more; you provided care at home to someone who is sick with COVID-19; you had direct physical contact with the person (hugged or kissed them); you shared eating or drinking utensils; or they sneezed, coughed, or somehow got respiratory droplets on you."[34]

However, if the employee DID NOT have close contact with a COVID-19 case or an area with substantial COVID-19 transmission, but does have signs or symptoms and tested negative for SARS-CoV-2, the negative test can be considered as supporting an "alternative diagnosis", and the person would not be considered suspected to be infected with SARS-CoV-2 virus. The employee must remain out of work until signs and symptoms have resolved and the employee has been fever-free for at least 24 hours

[34] https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html

without the use of fever-reducing medicine (unless symptoms are due to a known non-infectious cause, such as allergies).

> NOTE: It is important to remember that a negative test for SARS-CoV-2 only means that the person wasn't infected at the time the test was taken. If the person is ill one week, tests negative for SARS-CoV-2, and recovers from their illness, only to become ill again soon after, there is always the potential that the repeat illness may be related to COVID. Each illness should be handled as a distinct situation, meaning, the employee should not always be considered to be COVID-19 negative because they tested negative previously.

6. <u>Employees wearing face coverings with political statements</u>.

Commenter 87852: If an employee continues to wear a political face covering and tries to cite this regulation as to why I can't fire him/her for doing so when political statements are not permitted in business attire, this will become a highly litigious situation.

Department response: The Department does not believe this Standard interferes with an employer's abilities to set workplace rules regarding the content of statements, designs, pictures, etc. on face coverings or any form of personal protective equipment or respirator required to provided and worn under VOSH laws, standards or regulations.

However, the Department is recommending the following language addition to 16VAC25-220-90.B: "Nothing in this subsection shall be construed to prohibit an employer from establishing and enforcing legally permissible dress code or similar requirements addressing the exterior appearance of personal protective equipment or face coverings."

7. <u>Surgical masks versus face coverings</u>.

Commenter 87876: The definitions of face covering and surgical mask in the proposed standard apparently aim to categorically disqualify, for reason unclear, use of surgical masks as face coverings. As an unintended result, the terminology has potential to increase employee risk, eliminate highly effective face covering options and thereby trigger a rush to buy compliant face coverings which may result in inadequate availability.

Department response: The Commenter is mistaken that the Standard disqualifies the use of surgical masks in favor of face coverings. Surgical masks are a form of personal protective equipment permitted under the standard. All employers in general industry (i.e., all companies not in construction, agriculture or maritime) are covered by the federal OSHA identical standard 1910.132, Personal Protective Equipment, and that standard requires covered employers in 1910.132(d):

1910.132(d)

Hazard assessment and equipment selection.

1910.132(d)(1)

The employer shall assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) [SUCH AS SURGICAL MASKS OR RESPIRATORS FOR POTENTIAL COVID-19 EXPOSURE]. If such hazards are present, or likely to be present, the employer shall:

1910.132(d)(1)(i)

Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

1910.132(d)(1)(ii)

Communicate selection decisions to each affected employee; and,

1910.132(d)(1)(iii)

Select PPE that properly fits each affected employee.

Note: Non-mandatory appendix B contains an example of procedures that would comply with the requirement for a hazard assessment.

1910.132(d)(2)

The employer shall verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

Requirements similar to 1910.132(d) also apply to employers in construction, agriculture and public sector maritime (federal OSHA has jurisdiction over private sector maritime) by virtue of 16VAC25-220-50.D and 16VAC25-220-60.D.

In addition, 16VAC25-220-50.D.5 (very high and high risk) specifically provides:

"5. Unless contraindicated by a hazard assessment and equipment selection requirements in subdivision 1 of this subsection, employees classified as very high or high exposure risk shall be provided with and wear gloves, a gown, a face shield or goggles, and a respirator when in contact with or inside six feet of patients or other persons known to be or suspected of being infected with SARS-CoV-2. Gowns shall be the correct size to assure protection."

Also, 16VAC220-60.C.1.j (medium risk) provides:

j. Employers shall provide and require employees to wear face coverings who, because of job tasks, cannot feasibly practice physical distancing from another employee or other person if the hazard assessment has determined that personal protective equipment, such as respirators or surgical/medical procedure masks, was not required for the job task.

8. <u>Rapid Testing</u>.

Commenter 87912: In addition, I urge VOSH and the DOLI to require all employers to test all workers frequently (e.g., using rapid tests) as an additional public-health tool to reduce the spread of COVID-19 throughout the state of Virginia. Too many people are dying daily. Virginia must protect all workers, their families, their friends, and their surrounding communities. I have included links to three articles about the importance of rapid testing during the COVID-19 pandemic.[35]

Department response: While the Department acknowledges the Commenter's request to require rapid testing, it does not plan to recommend to the Safety and Health Codes Board that such a requirement be added to the standard. As noted in the articles referenced by the Commenter, there are issues about widespread availability of the testing materials and costs associated with obtaining them in sufficient supply to conduct daily workplace testing, that are best suited to be addressed at the federal government level rather than at the state level.

9. <u>VOSH Enforcement.</u>

While VOSH is charged with assuring the protection of Virginia employees from occupational safety and health hazards, it has a long history of working cooperatively with employers to achieve that protection. It also has the legal authority to enforce applicable laws, standards, regulations and executive orders in situations where employers decide they do not want to take advantage of a cooperative working relationship.

COVID-19 related employee complaints received by the VOSH program that are within VOSH's jurisdiction are being addressed with employers. In an abundance of caution, at the beginning of the COVID-19 outbreak in Virginia the Department decided to modify its normal complaint processing procedures for both the safety and health of the employees at the work sites and its VOSH compliance officers by trying to limit exposure to the virus as much as possible while carrying out statutory enforcement mandates.

Rather than conducting a combination of onsite inspections and informal investigations as is the case under normal situations, COVID-19 complaints were initially handled through the VOSH program's complaint investigation process, which involves contacting the employer by phone, fax, email, or letter.

VOSH informed the employer of the complaint allegation and required a written response concerning the validity of the complaint allegation, any safety and health measures taken to date to protect employees against potential COVID-19 related hazards, and any measures to be taken in response to valid complaint allegations.

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[35] https://www.harvardmagazine.com/2020/08/covid-19-test-for-public-health
https://www.wgbh.org/news/national-news/2020/11/23/harvard-epidemiologist-10-20-million-rapid-at-home-tests-per-day-would-be-enough-to-stop-the-outbreaks-across-the-united-states
https://time.com/5912705/covid-19-stop-spread-christmas/

Employers were required to post a copy of VOSH's correspondence where it would be readily accessible for review by employees; and provide a copy of the correspondence and the employer's response to a representative of any recognized union or safety committee at the facility. Complainants were provided a copy of the employer's response.

Depending on the specific facts of the employee's alleged complaint, an employer's failure to respond or inadequate response could result in additional contact by the VOSH program with the employer, a referral to local law enforcement officials, an onsite VOSH inspection, or other enforcement options available to the VOSH program.

COVID-19 "Inspections"

- Can result in violations and substantial penalties
- Inspections are opened for COVID-19 related employee deaths
- Inspections may be opened for COVID-19 related hospitalizations or handled through an investigation
- Inspection files with proposed violations will be reviewed by Headquarters and receive a legal review before a decision to issue or not issue is made

Since February, 2020, the Virginia Workers' Compensation Commission received 9,773 COVID-19 related claims as of November 30, 2020 in a wide variety of industries and workplace settings.

Through January 1, 2021, VOSH has been notified of 2,823 work locations where 3 or more positive COVID-19 employee cases occurred within a 14 day period in a wide variety of industries and workplace settings.

Through January 1, 2021, VOSH has received 1,537 employee complaints and referrals from other government agencies. It has received notifications of 30 COVID-19 related employee deaths and 61 employee hospitalizations. To date, VOSH has opened 103 inspections, a number of which resulted from employers not taking advantage of either working cooperatively with the Virginia Department of Health, or not taking advantage of VOSH's informal investigation process, which does not result in citations and penalties, provided the employer provides a satisfactory response.

Of the first 94 inspections conducted by VOSH, 43 remained under investigation as of January 4, 2021, 25 were closed with no violations issued, and 26 resulted in the issuance of violations (29 serious and 29 other-than-serious violations) and a total of $226,780.00 in penalties.

10. Where Virginia Ranks in Controlling the Spread of the Virus.

Commenter 10004: "Indeed, while the agriculture industry continues to have success in controlling the virus on our operations, we have seen no similar correlation between decreased positivity or control of spread in the general population as a result of the ETS."

Department response: The Department notes that the Commenter has not provided any data to support its contention that "the agriculture industry continues to have success in controlling the virus on our operations."

The Department notes that a recent report by the U.S. Department of Agriculture found:

> "On the health front, "The rural share of COVID-19 cases and deaths increased markedly during the fall of 2020. Rural areas have 14% of the population but accounted for 27% of COVID-19 deaths during the last three weeks of October 2020," according to "Rural America at a Glance: 2020 Edition" from the U.S. Department of Agriculture's Economic Research Service, or ERS."[36]

Study: More Than 125,000 Farmworkers Have Contracted Covid-19:[37]

> "TUESDAY, SEPTEMBER 22, 2020
>
> The Covid-19 virus has infected more than 125,000 U.S. farmworkers, according to the latest estimates in an ongoing study by Purdue University.
>
> To arrive at their estimates, researchers applied the county-by-county rate of the infection's spread to the number of farmworkers and farmers in those counties. As could be expected, the states with the most farmworkers – as estimated by farm labor spending in the U.S. Agricultural Census – top Purdue's list. Three of the five states with the most farmworkers lead the list of infections. Texas has 15,410 farmworker infections, California has 10,640 and Florida has 6,380.
>
> But after the top states, outliers pop up. The fourth through sixth highest number of farmworker infections are in Iowa (5,680), Tennessee (4,410) and Missouri (3,960). Each of those states ranked much higher in Covid-19 infections than in number of farmworkers.
>
> What could account for the disparity?
>
> Each of those states is notable for having no mandatory protections for farmworkers to fight Covid-19. Missouri and Tennessee have not even developed a set of voluntary guidelines for employers and employees to follow, and Iowa has recommended guidelines but no mandatory rules."

The Department acknowledges that, as it predicted back in June and July of this year in its presentations to the Safety and Health Codes Board, that the COVID-19 pandemic could get much worse before it got better, which was a major reason for recommending adoption of an ETS. The Department notes the following statistics which are also highlighted in the January 4, 2021 Briefing Package for the Board[38] beginning on page 36:

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[36] https://www.agweek.com/business/agriculture/6819831-USDA-report-studies-pandemics-effect-on-rural-America

[37] https://www.ewg.org/news-and-analysis/2020/09/study-more-125000-farmworkers-have-contracted-covid-19

[38] https://www.doli.virginia.gov/wp-content/uploads/2021/01/BP-Final-Standard-for-SARS-CoV-2-that-Causes-COVID-19-DRAFT-1.4.2021.pdf

As of December 22, 2020, Virginia ranked 45th in state rankings for total cases per 100K. The Virginia border states of Tennessee, Kentucky, North Carolina, Maryland, and West Virginia, none of which has an ETS, rank higher than Virginia:

7 - Tennessee

29 - Kentucky

39 - North Carolina

42 - Maryland

43 - West Virginia

45 – Virginia

As of December 26, 2020, Virginia ranked 30th in state rankings for average daily cases per 100K in last seven days. The Virginia border states of Tennessee, Kentucky, North Carolina, and West Virginia, none of which has an ETS, rank higher than Virginia. The only border state that outperformed Virginia in this metric was Maryland:

1 - Tennessee

6 - West Virginia

19 - North Carolina

25 - Kentucky

30 - Virginia

39 – Maryland

The Department is not suggesting that the ETS is the sole reason for Virginia's significantly better performance on key COVID-19 indicators than many other states. There are many factors that go into such an evaluation, not the least of which is the impact of Governor's Executive Orders and the commitment of Virginia's citizens, employers and employees to follow safe and health practices and implementing sound mitigation strategies.

11. Employee self-monitoring.

Commenter 20014: 16VAC25-220-40.B.2., page 22 - Employers to communicate to employees to self-monitor - is this meant to ensure reporting if suspect possible exposure? or just self-monitor? PLEASE CLARIFY.

Department Response: 16VAC25-220-40.B.2 provides:

> "2. Employers shall inform employees of the methods of and encourage employees to self-monitor for signs and symptoms of COVID-19 if employees suspect possible exposure or are experiencing signs or symptoms of an illness.

16VAC25-220-40.B.2 is solely directed at self-monitoring of employees. It does not require employers to report "suspect possible exposure." Employee notification

requirements are contained in 16VAC25-220-40.B.8 and only apply to "positive SARS-CoV-2 tests."

12. <u>Economic Impact Analysis.</u>

An economic impact analysis (EIA) based on the requirements of Va. Code §2.2-4007.04[39] will be issued no later than January 11, 2021. The EIA is being prepared by Chmura Economics & Analytics, a nationally recognized economic consulting firm.[40]

The Department does not intend to recommend that the Safety and Health Codes Board hold an additional comment period solely for the purpose of comment on the EIA.

Many of the requirements with associated costs related to the Commonwealth's response to the COVID-19 pandemic are contained in various Governor's Executive Orders, including most recently Executive Order 72. To the extent that a requirement is included in both Executive Orders and the standard, the Department does not consider the standard to impose any new cost burden on a covered locality.

In addition, many of the costs associated with dealing with workplace hazards associated with COVID-19 are the result of requirements contained in current federal OSHA or VOSH unique standards and regulations already applicable to local governments, and therefore the Department does not considered them to be new costs associated with adoption of the standard.

Following are federal OSHA identical and state unique standards and regulations applicable in the Construction Industry, Agriculture Industry, Maritime Industry (public sector employment only as OSHA retains jurisdiction over private sector employment in Virginia), and General Industry ("General Industry" covers all employers not otherwise classified as Construction, Agriculture, or Maritime) that can be used in certain situations to address COVID-19 hazards in the workplace:

General Industry

- 1910.132, Personal Protective Equipment in General Industry (including workplace assessment)
- 1910.133, Eye and Face Protection in General Industry
- 1910.134, Respiratory Protection in General Industry
- 1910.138, Hand Protection
- 1910.141, Sanitation in General Industry (including handwashing facilities)
- 1910.1030, Bloodborne pathogens in General Industry
- 1910.1450, Occupational exposure to hazardous chemicals in laboratories in General Industry

[39] https://law.lis.virginia.gov/vacode/title2.2/chapter40/section2.2-4007.04/
[40] http://www.chmuraecon.com/

Construction Industry

- 1926.95, Criteria for personal protective equipment in Construction
- 1926.102, Eye and Face Protection in Construction
- 1926.103, Respiratory Protection in Construction
- 16VAC25-160, Sanitation in Construction (including handwashing facilities)

Agriculture

- 16VAC25-190, Field Sanitation (including handwashing facilities) in Agriculture

Public Sector Maritime

- 1915.152, Shipyard Employment (Personal Protective Equipment)
- 1915.153, Shipyard Employment (Eye and Face Protection)
- 1915.154, Shipyard Employment (Respiratory Protection)
- 1915.157, Shipyard Employment (Hand and Body Protection)
- 1917.127, Marine Terminal Operations (Sanitation)
- 1917.92 and 1917.1(a)(2)(x), Marine Terminal Operations (Respiratory Protection, 1910.134)
- 1917.91, Marine Terminal Operations (Eye and Face Protection)
- 1917.95, Marine Terminal Operations (PPE, Other Protective Measures
- 1918.95, Longshoring (Sanitation)
- 1918.102, Longshoring (Respiratory Protection)
- 1918.101, Longshoring (Eye and Face Protection)

Multiple Industries

- 16VAC25-220, Emergency Temporary Standard in General Industry, Construction, Agriculture and Public Sector Maritime
- 1904, Recording and Reporting Occupational Injuries and Illness in General Industry, Construction, Agriculture and Public Sector Maritime
- 1910.142, Temporary Labor Camps (including handwashing facilities) in Agriculture and General Industry
- 1910.1020, Access to employee exposure and medical records in General Industry, Construction, and Public Sector Maritime (excludes Agriculture)
- 1910.1200, Hazard Communication in General Industry, Construction, Agriculture and Public Sector Maritime
- 16VAC25-60-120 (General Industry), 16VAC25-60-130 (Construction Industry), 16VAC25-60-140 (Agriculture), and 16VAC25-60-150 (Public Sector Maritime), Manufacturer's specifications and limitations applicable to the operation, training, use, installation, inspection, testing, repair and maintenance of all machinery, vehicles, tools, materials and equipment (can be used to apply to operation and

maintenance of air handling systems in accordance with manufacturer's instructions)

In addition, Va. Code §40.1-51.1.A, provides that:

> " A. It shall be the duty of every employer to furnish to each of his employees safe employment and a place of employment that is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees and to comply with all applicable occupational safety and health rules and regulations promulgated under this title."

Otherwise known as the "general duty clause" (the Virginia equivalent to §5(a)(1)) of the OSH Act of 1970), Va. Code §40.1-51.1.A can be used to address "serious" recognized hazards to which employees of the cited employer are exposed through reference to such things as national consensus standards, manufacturer's requirements, requirements of the Centers for Disease Control (CDC), or an employer's safety and health rules.

To the extent that the general duty clause could be used by the Department to address COVID-19 workplace hazards to the same extent as and in the same manner as the standard were the standard not in effect, the Department does not consider any of the costs associated with such use of the clause to be new costs associated with adoption of the standard.

13. Conflict Between Executive Orders and the ETS or final standard.

Commenter 20004: Conflict between EO and ETS: which to follow? Who has authority to enforce conflicts?

Department Response: Any conflicts identified between Governor's Executive Orders and the standard would be evaluated on a case by case basis depending on the fact of the situation. Employers can contact DOLI with such questions of interpretation by sending an email to webmaster@doli.virginia.gov.

Depending on the determination of whether the EO or ETS applied, enforcement authority would either be vested with VDH, VOSH, or other agencies having jurisdiction (e.g., Virginia Alcoholic Beverage Control Authority; Virginia Department of Agriculture and Consumer Services).

14. Changes in effective date for employee training.

Commenter 20015: Delayed effective date for training, etc. will leave gap in coverage. Especially since ETS currently has those requirements.

Department Response: The Department is recommending an expanded time for employee training from 30 days to 60 days in response to employer concerns expressed during multiple public comment opportunities about the ability to develop and provide effective training to management personnel and employees in 30 days. The Department does not believe the request is unreasonable in light of the unprecedented nature of the

pandemic and the need for employers to modify orientation and training materials for new hires and retraining materials for current employees. In addition, new businesses are being opened on a regular basis and should be afforded a sufficient time to develop and provide training. The Department does not intend to change its recommendation in response to the comment.

15. Outbreak notification changes.

Commenter 20015: "Outbreak" provision changes - we support current outbreak reporting as it is critical to report outbreaks to CDC/VDH.

Department Response: At the request of VDH, the Department proposed changing the COVID-19 case reporting requirement threshold from one case to two cases so that it aligned with current statutory/regulatory/procedural VDH reporting requirements. The lower reporting threshold was negatively impacting VDH's ability to effectively and efficiently use its limited employee resources and caused some confusion in the regulated community. The Department does not intend to change its recommendation in response to the comment.

16. Non-applicability of Administrative Process Act to adoption of a permanent standard under Va. Code §40.1-22(6a).

Commenter 20002: "I have substantial concerns with the proposed rule and strongly recommend the Board follow the full procedures of the Virginia Administrative Process Act (VAPA) (Va. Code 2.2-4000 et seq), as the Board committed to do."

Department Response: It is the position of the Department based on consultation with the Attorney General that by virtue of Va. Code §40.1-22(6a), the Administrative Process Act does not apply to adoption of either an ETS or permanent replacement standard adopted under the specific procedures outlined in that statute. As noted on page 180 of the June 23, 2020 Briefing Package to the Board regarding proposed adoption of an ETS/emergency regulation, the OAG noted: The clear intent of 40.1-22(6a) and 29 USC Section 655(c) in the OSH Act – is to create an alternative path to a temporary and permanent standard outside of the rigors and processes of the APA."

The Commenter is incorrect in stating that the Board committed to follow the full procedures of the Virginia Administrative Process Act (VAPA) (Va. Code 2.2-4000 et seq). The Board did make clear its intent during the adoption process for the ETS that during any process to adopt a permanent replacement standard it would attempt to substantially comply with the core requirements in the APA within the time constraints of the requirements of Va. Code §40.1-22(6a) by holding a 60 day written comment period and a public hearing along with obtaining an Economic Impact Analysis and holding a meeting to consider a final standard. All four of those conditions have or will be met by January 11, 2021.

17. <u>PPE Shortages</u>.

Commenter 20016:

Department Response: The Department respectfully disagrees with the Commenter's statement that "Proposed permanent standard rolls back on those protections by allowing "face coverings" when respirators are needed in certain circumstances. Current ETS was more appropriate and maintained respirator requirement when determined to be necessary."

16VAC25-220-10.C clearly states that:

> "This standard is designed to supplement and enhance existing VOSH laws, rules, regulations, and standards applicable directly or indirectly to SARS-CoV-2 virus or COVID-19 disease-related hazards such as, but not limited to, those dealing with personal protective equipment, respiratory protective equipment, sanitation, access to employee exposure and medical records, occupational exposure to hazardous chemicals in laboratories, hazard communication, § 40.1-51.1 A of the Code of Virginia, etc. Should this standard conflict with an existing VOSH rule, regulation, or standard, the more stringent requirement from an occupational safety and health hazard prevention standpoint shall apply."

The standard does recognize the practical effects of the persistent shortage of certain types of PPE, including respirators in 16VAC25-220-10.C

> "Notwithstanding anything to the contrary in this standard, no enforcement action shall be brought against an employer or institution for failure to provide PPE required by this standard, if (i) such PPE is not readily available on commercially reasonable terms, and (ii) the employer or institution makes a good faith effort to acquire or provide such PPE as is readily available on commercially reasonable terms. The Department of Labor and Industry shall consult with the Virginia Department of Health as to the ready availability of PPE on commercially reasonable terms and, in the event there are limited supplies of PPE, whether such supplies are being allocated to high risk or very high risk workplaces."

The Department interprets the phrase “no enforcement action” to mean that either no citation shall issue, or if a citation has already been issued it shall be vacated, “if such PPE is not readily available on commercially reasonable terms, and the employer or institution makes a good faith effort to acquire or provide such PPE as is readily available on commercially reasonable terms.” The Department will still retain the right to carry out its statutory authority to conduct informal investigations or onsite inspections and verify employer compliance with this provision.

18. <u>Reuse of Respirators.</u>

The VOSH Program follows OSHA’s April 3, 2020 Memorandum entitled “Enforcement Guidance for Respiratory Protection and the N95 Shortage Due to the Coronavirus Disease 2019 (COVID-19) Pandemic” which “outlines enforcement discretion to permit

the extended use and reuse of respirators, as well as the use of respirators that are beyond their manufacturer's recommended shelf life (sometimes referred to as "expired")."[41]

The VOSH Program also follows OSHA's April 24, 2020 Memorandum entitled "Enforcement Guidance on Decontamination of Filtering Facepiece Respirators in Healthcare During the Coronavirus Disease 2019 (COVID-19) Pandemic."[42]

19. <u>Impact of Vaccines.</u>

Impact of Vaccines. "Community immunity [or herd immunity]: A situation in which a sufficient proportion of a population is immune to an infectious disease (through vaccination and/or prior illness) to make its spread from person to person unlikely. Current estimates for achieving community immunity in the U.S. range from 70% to 90%. There are over 329,000,000 people living in the United States, which means that between 230,000,000 and 296,000,000 people would have to develop immunity through either infection or vaccination. Vaccine manufacturing and deployment will take many months to reach the necessary number of people.

According to the CDC, "The protection someone gains from having an infection (called natural immunity) varies depending on the disease, and it varies from person to person. Since this virus is new, we don't know how long natural immunity might last. Current evidence suggests that reinfection with the virus that causes COVID-19 is uncommon in the 90 days after initial infection. Regarding vaccination, we won't know how long immunity lasts until we have a vaccine and more data on how well it works."[43]

Virus mutations are also a known concern: "A new, highly contagious coronavirus variant that was first identified in Britain has reached the United States, officials in Colorado confirmed Tuesday, reporting the first known U.S. case of the strain more than two weeks after it was discovered — a worrying development as Covid-19 infections and deaths climb nationwide.

....

<u>Researchers believe this new coronavirus variant — which U.K. officials disclosed earlier this month — is about 56% more contagious than other versions of the virus, an alarming figure even though it doesn't appear to lead to deadlier infections.</u> As of last week, the variant was already responsible for the majority of London's Covid-19 infections, and officials have partly blamed it for a recent spike in U.K. Covid-19 cases that has forced much of the country back into strict lockdowns. Dozens of countries have banned or restricted travel from the United Kingdom in response, including the United States, which began requiring all U.K. travelers to show a negative coronavirus test before flying to the U.S. this week.

....

[41] https://www.osha.gov/memos/2020-04-03/enforcement-guidance-respiratory-protection-and-n95-shortage-due-coronavirus

[42] https://www.osha.gov/memos/2020-04-24/enforcement-guidance-decontamination-filtering-facepiece-respirators-healthcare

[43] https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html

Most infectious disease experts aren't surprised to see the new variant arrive in the United States. Last week, Dr. Anthony Fauci told ABC News it's "certainly possible" the mutation was already present in the country. But experts fear a more transmissible form of Covid-19 could make controlling the virus' spread even more difficult, adding to an already-dire surge in cases throughout the United States." (Emphasis added).
[44]

As of December 29, 2020, the CDC says: "While experts learn more about the protection that COVID-19 vaccines provide under real-life conditions, it will be important for everyone to continue using all the tools available to us to help stop this pandemic, like covering your mouth and nose with a mask, washing hands often, and staying at least 6 feet away from others. Together, COVID-19 vaccination and following CDC's recommendations for how to protect yourself and others will offer the best protection from getting and spreading COVID-19. Experts need to understand more about the protection that COVID-19 vaccines provide before deciding to change recommendations on steps everyone should take to slow the spread of the virus that causes COVID-19. Other factors, including how many people get vaccinated and how the virus is spreading in communities, will also affect this decision.

....

There is not enough information currently available to say if or when CDC will stop recommending that people wear masks and avoid close contact with others to help prevent the spread of the virus that causes COVID-19. Experts need to understand more about the protection that COVID-19 vaccines provide before making that decision. Other factors, including how many people get vaccinated and how the virus is spreading in communities, will also affect this decision."[45]

20. Removal of references to Executive Orders and Orders of Public Health Emergency.

The Department is recommending removal of the following provisions from the standard:

> 16VAC25-220-10.F:
>
> F. This standard shall not conflict with requirements and guidelines applicable to businesses set out in any applicable Virginia executive order or order of public health emergency.
>
> 16VAC25-220-40.G:
>
> G. Employers shall also ensure compliance with mandatory requirements of any applicable Virginia executive order or order of public health emergency.
>
> 16VAC25-220-70.C.9:

[44] https://www.forbes.com/sites/joewalsh/2021/12/29/first-us-case-of-new-covid-mutation-discovered-in-colorado/?sh=5560175e1d79
[45] https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html

9. Ensure compliance with mandatory requirements of any applicable Virginia executive order or order of public health emergency related to the SARS-CoV-2 virus or COVID-19 disease.

Department Response: After discussions with legal counsel, the Department is recommending removal of the above language.

In addition, the language is considered redundant in light of Executive Order 72, Order of Public Health Emergency, Commonsense Surge Restrictions, Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19), adopted on December 14, 2020, which provides as follows:

IV. ADDITIONAL PROVISIONS

A. Construction with the Emergency Temporary Standard "Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19"

Where the Emergency Temporary Standard "Infectious Disease Prevention: SARS-CoV2 Virus That Causes COVID-19" adopted by the Safety and Health Codes Board of the Virginia Department of Labor and Industry pursuant to 16 Va. Admin. Code §§ 25-60-20 and 25-60-30 conflicts with requirements and guidelines applicable to businesses in this Order, this Order shall govern.

21. Sick leave issue.

The Department does not plan to recommend changes to sick leave provisions in the Final Standard.

The Standard does not require employers to provide sick leave to employees. It does reference the Families First Coronavirus Response Act (FFCRA) at 16VAC25-220-40.B.6:

6. To the extent feasible and permitted by law, including but not limited to the Families First Coronavirus Response Act, employers shall ensure that sick leave policies are flexible and consistent with public health guidance and that employees are aware of these policies.

Further information about the FFCRA and sick leave policies can be found at: https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave

The Consolidated Appropriations Act (CAA 2021) was signed into law on December 27, 2020. "The CAA 2021 allows FFCRA-covered employers to voluntarily extend two types of emergency paid leaves through March 31, 2021 that were originally mandated between April 1, 2020 and December 31, 2020 by the Families First Coronavirus Response Act (FFCRA). These FFCRA leaves are Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave (EFMLA).

The FFCRA provided up to 10 days of EPSL, with varying levels of pay, for any of six COVID-19 qualifying reasons between April 1, 2020 and December 31, 2020. Carryover

of unused EPSL into 2021 was not allowed under the FFCRA—at least not as originally written.

The CAA 2021, however, amends the carryover provision of EPSL. Employers may now voluntarily choose to permit the carryover of unused 2020 EPSL into the first quarter of 2021. If they do, EPSL tax credits associated with this paid leave can be taken through March 31, 2021. The tax credits are an incentive for FFCRA-covered employers to choose to carryover unused EPSL.

It is important to note that the CAA 2021 does not provide employees with additional EPSL. Employees who emptied their EPSL tank of 10 days in 2020 have nothing to carry over into the first quarter of 2021 should their employers decide to allow EPSL carryover. The CAA 2021 merely extends the tax credit available to private employers under the FFCRA, and does not create new EPSL leave. ....

https://www.jdsupra.com/legalnews/extension-of-emergency-ffcra-leaves-21991/

22. Online Complaint Reporting to VDH.

Commenter 89272: I've been to many places where owners, employees, and customers alike all basically say 'screw it' and either wear a mask ineffectively (under the nose, or just all the way down the chin exposing nose and mouth) or don't wear them at all. I see offenders everywhere. Start writing tickets for not wearing masks/wearing them incorrectly. Check in on restaurants, gas stations, etc., without warning and fine the business for employees not masked.

Department Response: The Department does not have the legal authority to issue violations and penalties to members of the general public or employees, only to employers. See Va. Code §40.1-49.4. VDH has an online complaint system where you can file complaints about customers not wearing face coverings: https://redcap.vdh.virginia.gov/redcap/surveys/?s=Y4P9H7DTWA

23. Return to work requirements for asymptomatic persons.

With regard to the Commenter's request to clarify asymptomatic [return to work] issues, the standard provides in 16VAC25-220-40.C.1.b provides:

b. Employees known to be infected with SARS-CoV-2 who never develop signs or symptoms [IN OTHERWORDS, THEY ARE ASYMPTOMATIC] are excluded from returning to work until 10 days after the date of their first positive RT-PCR test for SARS-CoV-2 RNA.

24. Enforcement responsibility for face covering requirements of the general public.

Commenter 87857: We have mask mandates, curfews and limits on social gatherings... and who is enforcing that? I don't mean who is supposed to enforce it, I want to know who is actually enforcing that? They're great ideas and people ought to follow them. But at least in my town, no one is enforcing these rules. Customers do whatever they want and employees keep their mouths shut because their crumby minimum wage job isn't

worth getting screamed at or assaulted….And who gets cited? The business is cited because the Commonwealth isn't standing up to the individual people outright defying the law. Yes, workers need to be protected and some standard should be in place… but can we level the playing field a little?

Department Response: The Department recognizes and understands the frustrations expressed by the Commenter about the unwillingness of some people to wear face coverings; however, please note that some people do have legitimate health concerns with wearing face coverings that are excused from having to wear them.

The Standard does not address the rights or protections of the general public, and more specifically, it does not contain a face covering mandate for the general public. That issue is the purview of the Virginia Department of Health and Governor's Executive Orders (e.g., Executive Order 72). VDH has legal authority under Executive Order 72 to enforce requirements (e.g., face covering mandates, curfews and limits on social gatherings) contained in that order.
https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-72-and-Order-of-Public-Health-Emergency-Nine-Common-Sense-Surge-Restrictions-Certain-Temporary-Restrictions-Due-to-Novel-Coronavirus-(COVID-19).pdf

VDH also has an online complaint form that can be filled out by anyone to report violations of EO 72.
https://redcap.vdh.virginia.gov/redcap/surveys/?s=Y4P9H7DTWA

While the Virginia Department of Health (VDH) has some statutory and regulatory responsibilities in certain industries (restaurant permitting, temporary labor camp permitting, nursing home licensing, etc.), its primary focus is public safety, customer safety and patient safety. VDH has very limited and in some cases no enforcement options when it comes to requiring many of Virginia's industries to limit the spread of SARS-CoV-2 among employees and employers in the workplace.

In such cases where VDH does intervene in a workplace setting that does not fall under its jurisdiction, it will attempt to obtain the employer's agreement with Governor's Executive Orders, but it does not attempt to obtain the employer's agreement to comply with VOSH laws, standards, and regulations, such as VOSH's COVID-19 ETS or other applicable VOSH standards and regulations (e.g., personal protective equipment, respiratory protective equipment, etc.).

In cases where either an employer refuses to comply with Governor's Executive Orders or VDH suspects potential violations of VOSH laws, standards and regulations, it will make a referral to VOSH for either an informal investigation or an onsite inspection. Accordingly, it is neither legal nor appropriate from a policy standpoint for VOSH to cede jurisdiction to VDH to handle all COVD-19 issues.

25. Contact Tracing.

Commenter 88954: Reporting cases to VDH and/or VDL should only be required when workplace transmission of the virus has been established during contact tracing. Employees confirmed cases of COVID-19 that are attributable to exposures outside of the workplace, where contact tracing establishes no other employees have been in routine close contact in the workplace, should not be reportable. These are cases which are not the result of, or cause of, outbreaks in the workplace and therefore should not be reportable.

Department Response: The Department notes that 16VAC25-220-10.H. provides:

> "Nothing in the standard shall be construed to require employers to conduct contact tracing of the SARS-CoV-2 virus or COVID-19 disease."

The Department does not intend to make the Commenter's suggested change that would require employers to conduct contact tracing in order to determine whether an employee's positive COVID-19 test was the result of exposure at work or outside of work, as that would add a significant new compliance burden for employers. VDH already has responsibility to conduct contact tracing and the expertise and resources to do so.

26. Return to work issues for employees who have had close contact with a positive COVID-19 person.

The CDC defines “close contact” as “Close contact” means you were within 6 feet of someone who has COVID-19 for a total of 15 minutes or more; you provided care at home to someone who is sick with COVID-19; you had direct physical contact with the person (hugged or kissed them); you shared eating or drinking utensils; or they sneezed, coughed, or somehow got respiratory droplets on you.”

Close contact is used by the CDC and VDH for contact tracing purposes. The standard provides in 16VAC25-220-10.H:

H. Nothing in the standard shall be construed to require employers to conduct contact tracing of the SARS-CoV-2 virus or COVID-19 disease.

Close contact is also used for quarantine purposes. “Quarantine” is separation of people who were in “close contact” with a person with COVID-19 from others. The Standard does not address the issue of "quarantine."

Requirements for returning to work from “quarantine” is NOT covered by the ETS. Instead, Virginia Department of Health (VDH) guidelines apply (see §40, FAQs 26, 27, 28, 29, 30). https://www.doli.virginia.gov/conronavirus-covid-19-faqs/

VDH has responsibility for quarantine issues by statute and regulation.

27. Working age population exposure to virus.

The Department respectfully disagrees with the Commenter's statement that "The COVID-19 data for the working age population does not support a direct and immediate danger." There is overwhelming evidence to the contrary. The January 4, 2021 Briefing

Package for the Safety and Health Codes Board contains information in section V.C on the aging of the workforce and the high percentages of the American populace that are in COVID-19 high risk health categories:

“Older adults make up a large percentage of many of the jobs in these industries. For example, nearly half of bus drivers are older than 55, while almost 1 in 5 ticket takers and ushers are 65 or older. And although the BLS didn’t specifically call them out, farmers have also been impacted by the toll of the virus, with both prices of commodities and consumption declining. The median age of farmers and ranchers in the U.S. is 56.1 years old.” https://www.seniorliving.org/research/senior-employment-outlook-covid/

The CDC conducted a study of “Selected health conditions and risk factors, by age: United States, selected years 1988–1994 through 2015–2016” of the general population. Although the working population of the country is only a subset of the totals for the table, the data nonetheless demonstrates the significant risk that SARS-CoV-2 and COVID-19 related hazards pose to the U.S. and Virginia workers. Using the age adjusted statistical totals:

• 14.7% of the population suffer from diabetes,

• 12.2% from high cholesterol

• 30.2% suffer from hypertension

• 39.7% suffer from obesity

https://www.cdc.gov/nchs/data/hus/2018/021.pdf

The Briefing package also contains Virginia specific information on COVID-19 related workers' compensation claims, employee hospitalizations and employee deaths in section IV.E:

Since February, 2020, the Virginia Workers’ Compensation Commission received 9,773 COVID-19 related claims as of November 30, 2020.

Thirty employee deaths and 61 employee hospitalizations have been reported to VOSH as of January 1, 2021.

NOTE: The VOSH Program has investigated an average of 37 annual work-related employee deaths over the last five calendar years. The 30 COVID-19 death notifications so far in 2020 would represent 81% of the deaths investigated by VOSH in an average year.

November 4, 2020

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

PROPOSED PERMANENT STANDARD FOR INFECTIOUS DISEASE PREVENTION OF SARS-COV-2 WHICH CAUSES COVID-19, 16VAC25-220

DEPARTMENT STANDARD RESPONSES TO ISSUES RAISED BY PUBLIC COMMENTERS

Background

The Department received 993 written comments through the Virginia Regulatory Townhall for the 60 day written comment period from August 27, 2020 to September 25, 2020.

There were 33 written comments sent directly to the Department during the 60 day written comment period, although a number of those were also posted by the Commenter on the Virginia Regulatory Townhall.

There were 29 oral comments received during the public hearing on September 30, 2020.

Following are Department standard responses to issues raised by public commenters.

1. "No Mask Only" comments.

Over 200 comments were received in response to the Proposed Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220 ("Standard"), solely opposed to any form of face covering (or "face mask") requirement. The following responses are provided by VOSH in response to face covering issues raised by the comments:

The standard does not contain a public face covering mandate

16VAC25-220-10.C provides that the Standard applies "to every employer, employee, and place of employment in the Commonwealth of Virginia within the jurisdiction of the VOSH program…." The Standard does not contain a face covering mandate for the general public. That issue is the purview of the Virginia Department of Health and Governor's Executive Orders (e.g., Executive Order 63[46]).

The Standard does require employees to wear either personal protective equipment, respiratory protection equipment, or face coverings in situations where physical distancing of six feet from other persons cannot be maintained.

Face covering requirements are not unconstitutional

For those commenters who argued that that certain gubernatorial mandates (e.g., "face mask" mandate) are unconstitutional, according to the Office of the Attorney General on at least twelve occasions the Governor's COVID-19 restrictions have been upheld by circuit courts throughout the Commonwealth.[47] Two of these specifically challenged the face covering requirements. *Schilling et al. v. Northam*, CL20-799 (Albemarle Co. Cir. Ct. July 20, 2020)[48]; *Strother, et al. v. Northam*, CL20-260 (Fauquier Co. Cir. Ct. June 29, 2020).[49]

Regulation versus legislation

Some commenters were under the impression that the Standard was being proposed as legislation to the General Assembly. That is incorrect. The Standard is being considered for adoption by the Virginia Safety and Health Codes Board pursuant to Va. Code §40.1-22(6a)[50] and would be enforced by the Department of Labor and Industry's (DOLI) Virginia Occupational Safety and Health (VOSH) Program.

Permanence of the standard

Some commenters raised concerns about a face covering mandate being "permanent". The use of the word "permanent" in reference to the Standard reflects the fact that, if adopted, the Standard does not currently have a date on which it would expire.

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[46] https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-63-and-Order-Of-Public-Health-Emergency-Five---Requirement-To-Wear-Face-Covering-While-Inside-Buildings.pd

[47] https://oag.state.va.us/media-center/news-releases/1769-july-21-2020-herring-again-successfully-defends-mask-requirement (July 21, 2020, accessed Aug. 3, 2020).

[48] Accessible at https://oag.state.va.us/files/2020/Schilling-et-al-v-Northam.pdf.

[49] Accessible at https://www.oag.state.va.us/files/2020/maskRequirementsCase.pdf.

[50] https://law.lis.virginia.gov/vacode/40.1-22/

However, the Board has the authority to amend or repeal the Standard as the workplace hazards associated with the SARS-CoV-2 virus and COVID-19 disease evolve and eventually lessen.

A medical exemption is provided for face coverings

Some commenters expressed concern about any face covering requirement that could present medical problems for a person with a pre-existing medical condition, such as asthma, etc. 16VAC25-220-40.I provides that:

> "I. Nothing in this standard shall require the use of a respirator, surgical/medical procedure mask, or face covering by any employee for whom doing so would be contrary to the employee's health or safety because of a medical condition…."

Situations involving employers with an employee with a medical condition that does not allow them to wear a face covering when required while performing job tasks where physical distancing of six feet cannot be maintained are subject to requirements of the Americans With Disabilities Act (ADA). The ADA is enforced by the federal Equal Employment Opportunity Commission (EEOC).

The following link to the EEOC webpage with guidance on the ADA and COVID-19 issues can be used to research the core issue of whether the "high risk" category that the employee falls into is a "medical condition" that meets the definition of a "disability" under the ADA or not. Section D contains FAQs on "reasonable accommodations" that are provided to employees with a disability. The term "undue hardship" is referenced, and should be researched to see if it applies to the employer's situation.

https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

Commenters suggesting that sick people stay home instead of requiring the wearing of face coverings

Some commenters suggested that sick people stay home instead of requiring the wearing of face coverings. 16VAC25-220.B.5 specifically requires employers to assure that employees either known or suspected of being infected with SARS-CoV-2 not report to or remain at the work site or engage in work at a customer or client location until cleared for return to work.

However, it is well-documented in scientific literature that an estimated 20%[51] or more of persons infected with SARS-CoV-2 have no symptoms (are "asymptomatic"), while others may be infected and not show symptoms for several days (presymptomatic). Accordingly, simply telling sick people to stay home does not address the problem of potential asymptomatic and presymptomatic spread of SARS-CoV-2.

"Epidemiologic studies have documented SARS-CoV-2 transmission during the pre-

[51] https://www.healthline.com/health-news/20-percent-of-people-with-covid-19-are-asymptomatic-but-can-spread-the-disease#Only-20%-remained-asymptomatic

symptomatic incubation period, and asymptomatic transmission has been suggested in other reports. Virologic studies have also detected SARS-CoV-2 with RT-PCR low cycle thresholds, indicating larger quantities of viral RNA, and cultured viable virus among persons with asymptomatic and pre-symptomatic SARS-CoV-2 infection.

The exact degree of SARS-CoV-2 viral RNA shedding that confers risk of transmission is not yet clear. Risk of transmission is thought to be greatest when patients are symptomatic since viral shedding is greatest at the time of symptom onset and declines over the course of several days to weeks. However, the proportion of SARS-CoV-2 transmission in the population due to asymptomatic or pre-symptomatic infection compared to symptomatic infection is unclear." [52]

Face coverings help in protecting against infection spread in the community and at work

"During a pandemic, cloth masks may be the only option available; however, they should be used as a last resort when medical masks and respirators are not available.[53]

....

The general public can use cloth masks to protect against infection spread in the community. In community settings, masks may be used in 2 ways. First, they may be used by sick persons to prevent spread of infection (source control), and most health organizations (including WHO and CDC) recommend such use. In fact, a recent CDC policy change with regard to community use of cloth masks[54] is also based on high risk for transmission from asymptomatic or presymptomatic persons.[55] According to some studies, ≈25%–50% of persons with COVID-19 have mild cases or are asymptomatic and potentially can transmit infection to others. So in areas of high transmission, mask use as source control may prevent spread of infection from persons with asymptomatic, presymptomatic, or mild infections. If medical masks are prioritized for healthcare workers, the general public can use cloth masks as an alternative. Second, masks may be used by healthy persons to protect them from acquiring respiratory infections; some randomized controlled trials have shown masks to be efficacious in closed community settings, with and without the practice of hand hygiene.[56] Moreover, in a widespread pandemic, differentiating asymptomatic from healthy persons in the community is very difficult, so at least in high-transmission areas, universal face mask use may be beneficial. The general public should be educated about mask use because cloth masks may give users a false sense of protection because of their limited protection against acquiring infection.[57] Correctly putting on and taking off cloth masks improves

[52] https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html
[53] http://www.ijic.info/article/view/11366
[54] https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/face-masks.html
[55] https://bmcinfectdis.biomedcentral.com/articles/10.1186/s12879-019-4109-x
[56] MacIntyre CR, Chughtai AA. Facemasks for the prevention of infection in healthcare and community settings. BMJ. 2015;350(apr09 1):h694.
[57] Institute of Medicine. Reusability of facemasks during an influenza pandemic: facing the flu. Washington (DC): The National Academies Press; 2006.

protection.[58] Taking a mask off is a high-risk process[59] because pathogens may be present on the outer surface of the mask and may result in self-contamination during removal.[60]

Commenter's statements expressing a refusal to wear face coverings

To the extent that the commenters who opposed a mandatory face covering requirement can be considered to represent any significant percentage of people living, working or traveling through Virginia, their views expressing a refusal to wear masks in public or business settings, unintentionally strengthens the case for a face covering (or other personal protective equipment and respiratory protection equipment) requirement in the Standard.

The stated commenters bolster the credibility of research presented to the Board by the VOSH during the adoption process for the Emergency Temporary Standard (ETS),[61] that employees will face a higher risk of virus exposure in the coming months because a certain segment of the population will refuse to wear face coverings or observe physical distancing of at least 6 feet when interacting with employees.

2. Commenter's suggestion that a permanent standard is not needed.

The use of the word "permanent" in reference to the Standard reflects the fact that, if adopted, the Standard does not currently have a date on which it would expire. However, the Board has the authority to amend or repeal the Standard as the workplace hazards associated with the SARS-CoV-2 virus and COVID-19 disease evolve and eventually lessen.

3. Commenter's suggestion that it is not VOSH's job to "police" infections likely caused outside the workplace.

While many people become infected with SARS-CoV-2 in community settings that are not work-related, every person that becomes infected who is also an employee becomes a potential workplace source and transmitter of the virus if they report to work while still capable of transmitting the disease. There are numerous documented examples of the workplace spread SARS-CoV-2, which is also considered to be highly contagious. The introduction of an infectious disease into a workplace setting, regardless of the source, constitutes a workplace health hazard subject to regulation and enforcement by VOSH.

4. Commenter's suggestion that COVID-19 protections are better left to the Virginia Department of Health and Local Health Departments.

The VOSH program has clear statutory and regulatory jurisdiction over workplace safety and health issues in the Commonwealth, including the potential for spread of infectious diseases among employees and employers, and when those employees and employers

[58] https://wwwnc.cdc.gov/eid/article/26/10/20-0948-t1
[59] https://www.sciencedirect.com/science/article/pii/S0196655318306801?via%3Dihub
[60] https://bmcinfectdis.biomedcentral.com/articles/10.1186/s12879-019-4109-x
[61] https://www.doli.virginia.gov/wp-content/uploads/2020/07/RIS-filed-RTD-Final-ETS-7.24.2020.pdf

are potentially exposed to other persons who may be carriers of the infectious diseases (patients, customers, independent contractors, etc.).

While the Virginia Department of Health (VDH) has some statutory and regulatory responsibilities in certain industries (restaurant permitting, temporary labor camp permitting, nursing home licensing, etc.), its primary focus is public safety, customer safety and patient safety. VDH has very limited and in some cases no enforcement options when it comes to requiring many of Virginia's industries to limit the spread of SARS-CoV-2 among employees and employers in the workplace.

In such cases where VDH does intervene in a workplace setting that does not fall under its jurisdiction, it will attempt to obtain the employer's agreement with Governor's Executive Orders, but it does not attempt to obtain the employer's agreement to comply with VOSH laws, standards, and regulations, such as VOSH's COVID-19 ETS or other applicable VOSH standards and regulations (e.g., personal protective equipment, respiratory protective equipment, etc.).

In cases where either an employer refuses to comply with Governor's Executive Orders or VDH suspects potential violations of VOSH laws, standards and regulations, it will make a referral to VOSH for either an informal investigation or an onsite inspection. Accordingly, it is neither legal nor appropriate from a policy standpoint for VOSH to cede jurisdiction to VDH to handle all COVD-19 issues.

5. Definition of "suspected to be infected with sars-cov-2 virus" and the option for an alternative diagnosis.

16VAC25-220-40.B.4 of the COVID-19 Emergency Temporary Standard (ETS), provides that "Employers shall develop and implement policies and procedures for employees to report when employees are experiencing symptoms consistent with COVID-19, and no alternative diagnosis has been made (e.g., tested positive for influenza)…." Such employees are then classified as "Suspected to be infected with SARS-CoV-2 virus" and may not report to the workplace until they have been cleared for return to work in accordance with ETS requirements. In situations where there is the possibility for an alternative diagnosis (such as allergies, the common cold, the flu, an ear infection, etc.) the employer has a number of options, including but not limited to, a positive test for influenza or the employee obtaining an alternative diagnosis from a medical authority.

In addition, the Virginia Department of Health provides the following guidance:

If the employee DID NOT have close contact with a COVID-19 case or an area with substantial COVID-19 transmission, but does have signs or symptoms and tested negative for SARS-CoV-2, the negative test can be considered as supporting an "alternative diagnosis", and the person would not be considered suspected to be infected with SARS-CoV-2 virus. The employee must remain out of work until signs and symptoms have resolved and the employee has been fever-free for at least 24 hours without the use of fever-reducing medicine (unless symptoms are due to a known non-infectious cause, such as allergies).

NOTE: It is important to remember that a negative test for SARS-CoV-2 only means that the person wasn't infected at the time the test was taken. If the person is ill one week, tests negative for SARS-CoV-2, and recovers from their illness, only to become ill again soon after, there is always the potential that the repeat illness may be related to COVID. Each illness should be handled as a distinct situation, meaning, the employee should not always be considered to be COVID-19 negative because they tested negative previously.

6. Commenter's suggestion that businesses are already subject to too many regulations.

There is substantial scientific evidence and infection, hospitalization and death statistics that support the conclusion that SARS-CoV-2 presents a danger to employees in the workplace.

It is the Department's position that the danger posed to employees and employers by the SARS-CoV-2 virus and COVID-19 disease are necessary and appropriate to regulate after the expiration of the current COVID-19 Emergency Temporary Standard (ETS) on January 26, 2021. The number of COVID-19 daily infections in Virginia and the United States continue to support the conclusion of ongoing widespread community transmission and the continuing possibility of the introduction of SARS-CoV-2 into Virginia's workplaces for many months to come. It is well recognized that one or more vaccines will not be widely available to the public and employees until well after January 26, 2021.

The Department also believes that the Standard will ultimately help businesses to grow and bring customers back when those customers see that employers are providing employees with appropriate protections required by the Standard from SARS-CoV-2. If customers don't feel safe because employees don't feel safe, it will be hard for a business to prosper in a situation where there is ongoing community spread.

7. Commenter's suggestion that employers should just have to comply with CDC and Virginia Department of Health requirements.

The Department notes that the Standard provides flexibility to business through 16VAC25-220-10.G.1 which provides that "To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID-19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer's actions shall be considered in compliance with this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-COV-2 and COVID19 related hazards or job tasks addressed by this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard."

The Department does not intend to recommend any change to 16VAC25-220-10.G.1. A specific reference to "hospitals, health systems, and other facilities under their control" is unnecessary as the above provision applies to all employers wishing to take advantage of its provisions.

8. Commenter's suggestion that public and private institutions of higher education and public and private schools should just have to comply with CDC, Virginia Department of Health and/or SCHEV requirements.

The Department notes that the Standard provides flexibility to schools through 16VAC25-220-10.G.2 which provides that "Public and private institutions of higher education that have received certification from the State Council of Higher Education of Virginia that the institution's re-opening plans are in compliance with guidance documents, whether mandatory or non-mandatory, developed by the Governor's Office in conjunction with the Virginia Department of Health, shall be considered in compliance with this standard, provided the institution operates in compliance with their certified reopening plans and the certified reopening plans provide equivalent or greater levels of employee protection than this standard."

The Department notes that the Standard provides flexibility to schools through 16VAC25-220-10.G.2 "A public school division or private school that submits its plans to the Virginia Department of Education to move to Phase II and Phase III that are aligned with CDC guidance for reopening of schools that provide equivalent or greater levels of employee protection than a provision of this standard and who operate in compliance with the public school division's or private school's submitted plans shall be considered in compliance with this standard. An institution's actual compliance with recommendations contained in CDC guidelines or the Virginia Department of Education guidance, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard."

9. Return to work requirements in the standard are different from the CDC requirements.

The issue of the differences between the Standard's return to work requirement and those of the CDC will be addressed in the revised proposed permanent standard. A Frequently Asked Question (FAQ) provided by DOLI addresses the issue as it pertains to the current Emergency Temporary Standard (ETS).

On July 22, 2020, the CDC changed its guidance with regard to symptoms-based strategies from exclusion for 10 days after symptom onset and resolution of fever for at least 3 days to exclusion for 10 days after symptom onset and resolution of fever for at least 24 hours (i.e., the change was from 72 hours to 24 hours). For persons who never develop symptoms (i.e., asymptomatic), isolation and other precautions can be discontinued 10 days after the date of their first positive RT-PCR test for SARS-CoV-2 RNA.

16VAC25-220-10.G.1 provides in part that:

To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID- 19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer's actions shall be considered in compliance with this standard.... (Emphasis added).

Employers who comply with the above-referenced change in CDC guidance issued July 22, 2020, will be considered to be providing protection equivalent to protection provided by complying with the requirements in the ETS.

However, nothing in the FAQ shall be construed to prohibit an employer from complying with the symptom-based or time-based strategies for return to work determinations in the ETS. (See §40 FAQ 18, https://www.doli.virginia.gov/conronavirus-covid-19-faqs/)

10. Commenter's suggestion that if workers aren't willing to take responsibility for themselves out in public then employers should not be forced to take the responsibility for them.

The Commenter asks why employers should provide strong workplace protections to prevent the spread of SARS-CoV-2, when employees can get infected anyway by not maintaining the same kind of protections in their private life, and then apparently bring that infection back into the workplace. It is exactly because there currently is a real possibility that infections obtained outside of work – whether by an employee, or a customer, or a patient, or a subcontractor – that employers need to maintain workplace COVID-19 protections for those employees who do act responsibly away from work.

11. Political commentary.

The Department has no response to the Commenter's political commentary.

12. Notice and comment procedures followed on the Standard.

The proposed permanent standard has been subject to the following notice and comment procedures. The Virginia Safety and Health Codes Board held a 60 day written comment period for the Proposed Permanent Standard, with the comment period running from August 27, 2020 to September 25, 2020. The Board held a Public Hearing on September 30, 2020. A revised draft of the Proposed Permanent Standard will be published with an additional 30 day comment period prior to any Board action. A public hearing will also be held.

13. The Department does not anticipate a large increase in litigation with regard to the Emergency Temporary Standard or any permanent standard.

Review of all COVID-19 related inspections under the Emergency Temporary Standard is conducted centrally by the Department with both a programmatic and legal review prior to a decision to issue or not issue violations/penalties to assure consistent

enforcement across the Commonwealth. The Department does not anticipate any significant increase in litigation with regard to the Emergency Temporary Standard or any permanent standard.

14. No substantive issues raised.

The Department acknowledges the Comment and has no additional response as the Commenter did not raise any substantive issues.

15. Travel regulations.

The Standard does not contain travel regulations.

16. Six foot separation at all times.

If your employees are able to maintain physical distancing of 6 feet from other persons (employees, customers, etc.) at all times, than it is appropriate for their job tasks to be classified as "lower risk." Please note that the definition for "lower risk" also provides that "when it is necessary for an employee to have brief contact with others inside the six feet distance a face covering is required", and still allows the job tasks to remain classified as lower risk.

Employers that are able to modify job tasks and mitigate potential exposure to SARS-CoV-2 to the extent that they can classify their employees as lower risk greatly reduce their compliance burden under the Standard. Such employers will not have to comply with the additional requirements contained in 16VAC25-220-60 for medium risk hazards and job tasks; nor will they have to develop an infectious disease preparedness and response plan under 16VAC25-220-70.

Finally, such employers will be able avoid the large majority of the training requirements under 16VAC25-220-80, with the exception that employees have to be provided with written or oral information on the hazards and characteristics of SARS-COV-2 and the symptoms of COVID-19 and measures to minimize exposure. The Department has developed an information sheet which satisfies this requirement which can be found at: https://www.doli.virginia.gov/wp-content/uploads/2020/07/Lower-Risk-Training-1.pdf.

17. Greater hazard issues.

The Standard requires employers to provide and employees in customer facing positions to wear a face covering. If the employer is concerned that employee use of a face covering may present a greater safety or health hazard to employees than compliance with the Standard (e.g., the inability to communicate coherently with another employee during a potentially hazardous job task) the issue needs to be assessed during the personal protective equipment (PPE) hazard assessment process required either under the Standard (see 16VAC25-220-50.D for very high and high risk situations, and 16VAC25-220.60.D for medium risk situations) or 1910.132(d) for general industry employers. The PPE hazard assessment process will allow the employer to identify any

potential situations where there may be a greater hazard presented and develop alternative protections for employees.

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PPE

16VAC25-220-40.F provides: "F. When multiple employees are occupying a vehicle for work purposes, the employer shall ensure compliance with respiratory protection and personal protective equipment standards applicable to the employer's industry. If the employer is concerned that employee use of a face covering may present a greater safety or health hazard to employees than compliance with the Standard (e.g., the inability to communicate coherently with another employee during a potentially hazardous job task) the issue needs to be assessed during the personal protective equipment (PPE) hazard assessment process required either under the Standard (see 16VAC25-220-50.D for very high and high risk situations, and 16VAC25-220.60.D for medium risk situations) or 1910.132(d) for general industry employers. The PPE hazard assessment process will allow the employer to identify any potential situations where there may be a greater hazard presented and develop alternative protections for employees.

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Heat Illness

If the employer is concerned that employee use of a face covering may present a greater safety or health hazard to employees to employees exposed to hot environments than compliance with the Standard (e.g., the inability to communicate coherently with another employee during a potentially hazardous job task) the issue needs to be assessed during the personal protective equipment (PPE) hazard assessment process required either under the Standard (see 16VAC25-220-50.D for very high and high risk situations, and 16VAC25-220.60.D for medium risk situations) or 1910.132(d) for general industry employers. The PPE hazard assessment process will allow the employer to identify any potential situations where there may be a greater hazard presented due to hot environments and develop alternative protections for employees.

In addition, 16VAC25-220-80.B.8.f provides that training on the standard provided to employees shall include with regard to PPE: “Heat-related illness prevention including the signs and symptoms of heat-related illness….”

18. Regulation versus legislation.

This Standard is not being proposed as legislation to the General Assembly. The Standard is being considered for adoption by the Virginia Safety and Health Codes Board pursuant to Va. Code §40.1-22(6a) and would be enforced by the Department of Labor and Industry’s (DOLI) Virginia Occupational Safety and Health (VOSH) Program.

19. Similarly situated employees should be provided the same level of protection (request for healthcare industry exemption from the standard).

Employees and employers in the healthcare industry are exposed to the same and even greater COVID-19 related hazards and job tasks as employees in other industries. It is the Department's position that similarly situated employees and employers exposed to the same or even more serious hazards or job task should all be provided the same basic level of safety and health protections.

An exemption from the Standard for employers and employees in the healthcare industry is therefore inappropriate.

20. The Standard does not address the rights of the general public.

16VAC25-220-10.C provides that the Standard applies "to every employer, employee, and place of employment in the Commonwealth of Virginia within the jurisdiction of the VOSH program…." The Standard does not address the rights or protections of the general public.

21. Small business resources.

The Department acknowledges that all of its VOSH laws, standards and regulations can serve to place compliance burdens on employers and employees, particularly in the small business sector. The Department also believes that employers that embrace providing sound and comprehensive workplace safety and health protections can make their business more efficient and profitable through such benefits as reduced injuries, illnesses and fatalities, reduced workers' compensation costs, reduced insurance costs, improvements in morale and innovation, and increased productivity.

The Department strongly encourages Virginia's small business owners to take advantage of free and confidential occupational safety and health onsite and virtual consultation and training services to address COVID-19 compliance issues. More information about the VOSH Consultation Services can be found at: https://www.doli.virginia.gov/vosh-programs/consultation/

In addition, free Outreach, Training, and Educational materials to assure compliance with COVID-19 requirements can be found at: https://www.doli.virginia.gov/covid-19-outreach-education-and-training/

22. "At will employment".

The Department has no response concerning the Commenter's reference to "at will employment" in Virginia other than to note that employers within the jurisdiction of the VOSH program are required to provide safe and health workplaces for their employees.

23. Other States that have adopted COVID-19 related workplace safety and health regulations.

The states of Virginia, Washington, Michigan, Oregon and California have adopted COVID-19 related workplace safety and health regulations.

24. Whistleblower provision in 16VAC25-220-90.C does not provide protection for unsubstantiated or false claims against an employer.

The Department does not intend to recommend any change to 16VAC25-220-90.C as it is the position of the Department that it reflects the current state of case law on the subject.

Pursuant to Va. Code §40.1-51.2:1, employees are protected from discrimination when they engage in activities protected by Title 40.1 of the Code of Virginia ("because the employee has filed a safety or health complaint or has testified or otherwise acted to exercise rights under the safety and health provisions of this title for themselves or others.").

Whether an employee engaged in a "protected activity" under Title 40.1 is very fact specific, but can include occupational safety and health information shared by an employee about their employer on a social media or other public platform in certain situations.

16VAC25-220-90.C provides that:

> No person shall discharge or in any way discriminate against an employee who raises a reasonable concern about infection control related to the SARS-CoV-2 virus and COVID-19 disease to the employer, the employer's agent, other employees, a government agency, or to the public such as through print, online, social, or any other media.

If an employee raises an unsubstantiated COVID-19 related claim or makes a false COVID-19 related claim against their employer through print, online, social, or any other media, such an act by an employee would not be considered "reasonable" under the ETS and disciplinary action taken against the employee in accordance with the employer's human resource policies would not be considered "discrimination" under the ETS/ER or Va. Code §40.1-51.2:1.

25. ASHRAE air handling requirements.

The Department acknowledges the comment and notes that the ASHRAE air handling requirements issue raised by the Commenter is undergoing a legal review.

25. Quarantine and isolation explained.

The Standard does not address the issue of "quarantine". "Quarantine" is separation of people who were in "close contact" with a person with COVID-19 from others. The Standard does address the issue of "isolation".

"Isolation" is the separation of people with COVID-19 from others. People in isolation need to stay home and separate themselves from others in the home as much as possible. Requirements for returning to work from isolation is covered by the ETS in 16VAC25-220-40.C. However, please note that in lieu of complying with 16VAC25-220-40.C, employers may comply with recently updated CDC guidelines (see §40 FAQ 18, https://www.doli.virginia.gov/conronavirus-covid-19-faqs/).

26. Economic impact analysis/cost analysis.

An economic impact analysis/cost analysis will be prepared for the revised proposed permanent standard.

27. VOSH penalties.

Any penalties collected by the Commonwealth in response to VOSH COVID-19 related inspections is deposited in the General Fund of the Commonwealth and not the Department of Labor and Industry's budget.

28. The Standard does not cover other infectious diseases.

The Standard does not cover other infectious diseases like influenza, tuberculosis, etc.

29. Employee temperature checks are not specifically required during prescreening.

Although it is a generally accepted practice, the Standard does not specifically require that employers check the temperatures of employees. 16VAC25-220-50.C.1 provides that "Prior to the commencement of each work shift, prescreening or surveying shall be required to verify each covered employee does not have signs or symptoms of COVID-19." Employers are provided the flexibility to determine what form of prescreening they will use to determine that "each covered employee does not have signs or symptoms of COVID-19."

30. Safe harbor issue.

With regard to the "safe harbor" issue, the Department notes that the Standard provides flexibility to business through 16VAC25-220-10.G.1 which provides that “To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID-19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer's actions shall be considered in compliance with this standard.”

The Standard is clear that employer's wishing to take advantage of 16VAC25-220-10.G.1 must comply with both mandatory and non-mandatory provisions in the specific CDC guidelines, and those provisions must provide equivalent or greater protection than provided by a provision of the Standard.

The Department does not plan to recommend that 16VAC25-220-10.G be returned to its original language. It is the Department's position that similarly situated employees and employers exposed to the same or even more serious hazards or job task should all be provided the same basic level of safety and health protections. The Standard's language in 16VAC25-220-10.G assures such protections.

31. FAQs.

Frequently Asked Questions (FAQs) are available at:
https://www.doli.virginia.gov/conronavirus-covid-19-faqs/

32. Price gouging for PPE.

Price gouging complaints during a state of emergency in Virginia can be filed with the Office of the Attorney General (OAG): https://www.oag.state.va.us/consumer-protection/index.php?option=com_content&view=article&id=181#:~:text=File%20a%20Price%20Gouging%20complaint,Office%20of%20Weights%20and%20Measures.

33. Face covering definition.

The Department intends to recommend a change to the definition of face covering.

34. Commenter's suggestion that only Virginia citizens should be able to file comments.

The Department does not have any control over who can file comments to standards and regulations. That is within the purview of the General Assembly.

35. Commenter's suggestion that the Standard is "one size fits all".

The Department disagrees that the Standard is a "one size fits all" regulatory approach.

At its core the Standard is a risk management system to prevent or limit the spread in the workplace of the SARS-CoV-2 virus which causes COVID-19.

It is designed to provide basic protections for all employees and employers within the jurisdiction of the Virginia Occupational Safety and Health program.

It provides certain mandatory requirements for all employers and specific additional requirements for Very High, High, and Medium risk job tasks centered around mitigation of hazards.

The Standard is also designed to incentivize employers to make changes in the workplace that will enable employees in certain situations to be classified to a reduced level of risk (e.g., from high to medium or from medium to lower), thereby also reducing the employer's compliance and cost burdens.

36. Vaccinations.

COVID-19 vaccines will be an important part of the Commonwealth's and the country's ability to significantly reduce the ongoing spread of the SARS-CoV-2 virus in the workplace and in the community. However, with the projected population-level efficacy of COVID-19 vaccine to be 50-70%, no one can definitively state that someone vaccinated will not subsequently be free from infection.

There is also anecdotal information and scientific surveys that appear to indicate that a certain sector of the American population will refuse to be vaccinated. Accordingly, it is anticipated that SARS-CoV-2 will continue to infect a certain sector of the populace and be present in the workplace for months and years to come.

The Department does not intend to include a requirement in the Standard for employees to be vaccinated; however, the Standard is designed to incentivize employers to implement mitigation strategies against the spread of SARS-CoV-2, and vaccinations are one such strategy.

37. Physical separation of employees at low-risk businesses by a permanent, solid floor to ceiling wall.

The language referenced by the Commenter (physical separation of employees at low-risk businesses by a permanent, solid floor to ceiling wall) is one method described in the Standard for mitigating the spread of SARS-CoV2; however, employers are not required to do so.

The Department intends to recommend a language change to the Standard that makes this clear.

38. Risk classification by job task and hazard.

The language referenced by the Commenter (Requiring employers to determine the risk of each employee instead of basing that on their job tasks) is not accurate. The Standard specifically provides in 16VAC25-220-40.B.1 that "Employers shall assess their workplace for hazards and job tasks that can potentially expose employees to the SARS-CoV-2 virus or COVID-19 disease. Employers shall classify each job task according to the hazards employees are potentially exposed…."

39. Cleaning and disinfecting at the same intervals.

The language referenced by the Commenter (All businesses must clean and disinfect at the same intervals whether it's a 9 to 5 office setting or a factory with round-the-clock shifts. Again, imposing burdens without any rationale.) is assumed by the Department to refer to 16VAC25-220-40.K.5 which provides "All common spaces, including bathrooms, frequently touched surfaces, and doors, shall at a minimum be cleaned and disinfected at the end of each shift."

The Department disagrees that there is no rationale for the requirement. The provision states that the cleaning will take place "at the end of each shift", the rationale being to prevent the spread of the SARS-CoV-2 virus from one group of employees to another (employers with multiple shifts); or from the same group of employees from one day to another when they have been away from work during the time in between shifts and potentially exposed to SARS-CoV-2 in the interim, or for locations where customers enter, for the same reason.

40. Comprehensive infectious disease standard.

The Safety and Health Codes Board has the option to begin consideration of a comprehensive infectious disease standard at any time; however the Department recommends that the focus for now remain on addressing SARS-CoV-2 and COVID-19 workplace hazards.

41. Privacy issues.

With regard to the privacy issue raised, the Standard specifically references the Health Insurance Portability and Accountability Act (HIPAA) in two places when dealing with potential employee and employer privacy concerns (16VAC25-220-40.B.8 and 16VAC25-220-70.C.3.b).

42. Exemption from the Standard for hospitals and healthcare providers.

The issue of an exemption from the Emergency Temporary Standard for hospitals and healthcare providers was previously considered by the Safety and Health Codes Board and not adopted.

43. Commenter's suggestion that the ETS conflicts with federal regulations.

The Department is not aware of any conflicts of the Standard with federal regulations. Federal OSHA does not have an infectious disease regulation that applies to SARS-CoV-2 and COVID-19.

44. Commenter's comparison of COVID-19 with influenza and common cold.

With regard to the issue of comparing SARS-CoV-2 and Covid-19 to influenza and the common cold, there are a number of significant differences which are discussed in detail in the Department's Briefing Package on the Emergency Temporary Standard dated June 23, 2020, which can be found at: https://www.doli.virginia.gov/wp-content/uploads/2020/06/BP-Emergency-Regulation-Under-2.2-4011-SARS-CoV-2-That-Causes-COVID-19-FINAL-6.23.2020.pdf (e.g., lack of a vaccine, limited treatment options, infection fatality rate; there is currently no vaccine; treatment options are still limited; superspreader transmission, etc.).

45. The ETS cannot be extended.

Va. Code §40.1-22(6a) under which the Emergency Temporary Standard (ETS) was adopted does not permit the ETS to be extended beyond 6 months.

46. The framework of the Standard is based on an OSHA document.

The Department notes that the basic framework for the Standard (classifying COVID-19 hazards and job tasks by risk classification - very high, high, medium and lower - is based on a document prepared by federal OSHA which can be found at: https://www.osha.gov/Publications/OSHA3990.pdf

At its core the Standard is a risk management system to prevent or limit the spread in the workplace of the SARS-CoV-2 virus which causes COVID-19.

It is designed to provide basic protections for all employees and employers within the jurisdiction of the Virginia Occupational Safety and Health program.

It provides certain mandatory requirements for all employers and specific additional requirements for Very High, High, and Medium risk job tasks centered around mitigation of hazards.

The Standard is also designed to incentivize employers to make changes in the workplace that will enable employees in certain situations to be classified to a reduced level of risk (e.g., from high to medium or from medium to lower), thereby also reducing the employer's compliance and cost burdens.

47. VOSH Anti-discrimination jurisdiction.

The Department of Labor and Industry's (DOLI) Virginia Occupational Safety and Health (VOSH) program only has jurisdiction when there is an employer - employee relationship. It has no legal authority to investigate discrimination against members of the general public.

48. VOSH jurisdiction to enforce Executive Orders.

The Department of Labor and Industry's (DOLI) Virginia Occupational Safety and Health (VOSH) program only has jurisdiction when there is an employer - employee relationship. It has no legal authority to enforce provisions of Executive Orders against members of the general public.

49. COVID-19 U.S. Death toll.

The United States Census Bureau as of October 28, 2020, estimates the current population of the U. S. to be approximately 330,513,000, https://www.census.gov/popclock/. If 1% of the U. S. Population dies from SARS-CoV-2 or complications involving COVID-19, the number of deaths would be 330,513. The current U.S. death toll is calculated to be 212,328 by the CDC as of October 28, 2020, approximately two-thirds of the 1% figure cited by the Commenter, and that only over a 7 month period, https://www.cdc.gov/nchs/nvss/vsrr/covid19/index.htm.

50. Potential language change recommendations to the Standard (Examples).

The Department acknowledges the issues raised by the Commenter (training time period and contact tracers), and will consider potential language changes in the revised proposed Standard.

The Department intends to recommend a definition of "minimal occupational contact" be added to the revised proposed standard.

The Department intends to recommend language changes to the "business consideration" language in 16VAC25-220-70.C.5 referenced by the Commenter to make clear that the language is related to occupational safety and health concerns.

The Department intends to recommend that the return to work provisions of the standard be updated to reflect current CDC and VDH guidance.

The Department intends to recommend revisions to 16VAC25-220-40.F, which currently provides: "F. When multiple employees are occupying a vehicle for work purposes, the employer shall ensure compliance with respiratory protection and personal protective equipment standards applicable to the employer's industry.

The Department intends to recommend a language change to 16VAC25-220-40.D.

The Department intends to recommend a language change to 16VAC25-220-50.B.6.

The Department intends to recommend revisions to 16VAC25-220-40.K.5 which currently provides: "5. All common spaces, including bathrooms, frequently touched surfaces, and doors, shall at a minimum be cleaned and disinfected at the end of each shift. All shared tools, equipment, workspaces, and vehicles shall be cleaned and disinfected prior to transfer from one employee to another."

The Department intends to recommend a language change to the amount of time permitted to train employees under the Standard.

The Commenter referenced the fact that 16VAC25-220-80.B.8.f provides that training on the standard provided to employees shall include with regard to PPE: “Heat-related illness prevention including the signs and symptoms of heat-related illness….” The Department intends to recommend a revision to this requirement to make clear that it relates COVID-19 related hazards specifically (e.g., impact of wearing a respirator in a hot environment).

51. Work-relatedness of COVID-19 employee infection.

16VAC25-220-40.B.8.e requires employers to notify the Department within 24 hours of the discovery of three or more employees present at the place of employment within a 14-day period testing positive for SARS-CoV-2 virus during that 14-day time period.

DOLI and the Virginia Department of Health (VDH) have collaborated on a Notification Portal for employers to report COVID-19 cases in accordance with Emergency Temporary Standard (ETS) Sections 16VAC25-220-40.B.8.d and -40.B.8.e that satisfies COVID-19 reporting requirements for both agencies. The portal went live on September 28, 2020. Here is a link:

https://www.doli.virginia.gov/report-a-workplace-fatality-or-severe-injury-or-covid-19-case/

If an employer is contacted by VOSH either through an informal investigation (phone/fax/email/letter) or as a result of an onsite inspection, it will be provided the opportunity to present information on whether it believes the employee’s infection occurred as a result of a workplace exposure or was contracted away from work.

52. Request for exposure log and requirements for managing cases.

The Standard contains a framework for managing cases:

1. Identify cases.

16VAC25-220-40.B.4 provides that "Employers shall develop and implement policies and procedures for employees to report when employees are experiencing symptoms consistent with COVID-19, and no alternative diagnosis has been made (e.g., tested positive for influenza). Such employees shall be designated by the employer as "suspected to be infected with SARS-CoV-2 virus."

2. Remove from work known cases and those "suspected to be infected with SARS-CoV-2 virus."

16VAC25-220-40.B.5 provides that "Employers shall not permit employees or other persons known or suspected to be infected with SARS-CoV-2 virus to report to or remain at the work site or engage in work at a customer or client location until cleared for return to work."

3. Notify employees and others of known cases.

16VAC25-220-40.B.8 provides "To the extent permitted by law, including HIPAA, employers shall establish a system to receive reports of positive SARS-CoV-2 tests by employees, subcontractors, contract employees, and temporary employees (excluding patients hospitalized on the basis of being known or suspected to be infected with SARS-CoV-2 virus) present at the place of employment within the previous 14 days from the date of positive test…."

4. Provide for return to work.

16VAC25-220-40.C.1 provides that "The employer shall develop and implement policies and procedures for employees known or suspected to be infected with the SARS-CoV-2 virus to return to work…."

Federal OSHA's Recordkeeping regulation contains requirements for employer maintenance of injury and illness logs in part 1904. https://www.osha.gov/laws-regs/regulations/standardnumber/1904/. Section 1904 contains recording criteria, https://www.osha.gov/laws-regs/regulations/standardnumber/1904/1904.4. OSHA provides further guidance at: https://www.osha.gov/memos/2020-05-19/revised-enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19

The VOSH program is prohibited from requiring or allowing recordkeeping requirements contrary to those set by federal OSHA so that a consistent, statistically reliable national data collection system can be maintained. See 16VAC25-60-190.A.2, http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+16VAC25-60-190, "2. No variances on record keeping requirements required by the U.S. Department of Labor shall be granted by the commissioner…."

53. How does an employer determine employee exposure in the context of 16VAC25-220-40.B.8.a ([notify:] The employer's own employees who may have been exposed, within 24 hours of discovery of the employees possible exposure….")

16VAC25-220-40.B.8.a provides in part:

> 8. To the extent permitted by law, including HIPAA, employers shall establish a system to receive reports of positive SARS-CoV-2 tests by employees, subcontractors, contract employees, and temporary employees (excluding patients hospitalized on the basis of being known or suspected to be infected with SARS-CoV-2 virus) present at the place of employment within the previous 14 days from the date of positive test, and the employer shall notify:
>
> a. The employer's own employees who may have been exposed, within 24 hours of discovery of the employees possible exposure,...

The following Frequently Asked Question was developed by the Department on this issue (§40, FAQ 24, https://www.doli.virginia.gov/conronavirus-covid-19-faqs/

24. The owners of a salon have a question about alerting the employees at their workplace when an employee tests positive for COVID-19. They are under the impression that only employees in "close contact" (as defined by the CDC) with the positive employee must be alerted. The salon has a strict physical distancing requirement of six feet or more for employees, so they alerted no one at the workplace of the positive case. Is this correct?

No. Employees were required to be notified. The term "close contact" is not used in the ETS. The term "close contact" is used by the CDC for determining when contact tracing should be conducted and is defined as "any individual within 6 feet of an infected person for at least 15 minutes." 16VAC25-220-10.H specifically provides that:

> H. Nothing in the standard shall be construed to require employers to conduct contact tracing of the SARS-CoV-2 virus or COVID-19 disease.

16VAC25-220.40.B.8.a requires employers to notify their "own employees who may have been exposed, within 24 hours of discovery of the employees' possible exposure...."

Just because an employer has a strict policy of physical distancing as the company alleges does not mean that all employees, customers or persons complied at all times. The intent of the notification requirement is to provide employees information of a "possible" exposure so that employees can make decisions for themselves on the appropriate course of action to take.

In a situation such as a typical beauty salon where the "footprint" of the floor space would not be considered large, and all employees work in the same work space on the same floor, the employer must notify all employees that were "present at the place of employment within the previous 14 days from the date of positive test."

54. Commenter suggests its industry should be "classified" as lower instead of medium.

While the Standard lists a number of industries under the definition of "medium" exposure risk level, the language specifically states that "Medium exposure risk hazards or job tasks **may include**, but are not limited to, operations and services in....(Emphasis added). The definition of "medium" exposure risk level does not classify

the listed industries as medium risk, but instead when read in conjunction with other portions of the Standard, indicates that the listed industries "may" fall into that category, depending on how the employer assesses and classifies the types of hazards employees are exposed to and the type of job tasks they undertake, in accordance with the requirements in 16VAC25-220-40.B, which provides that:

> B. Exposure assessment and determination, notification requirements, and employee access to exposure and medical records.
>
> 1. Employers shall assess their workplace for hazards and job tasks that can potentially expose employees to the SARS-CoV-2 virus or COVID-19 disease. Employers shall classify each job task according to the hazards employees are potentially exposed to and ensure compliance with the applicable sections of this standard for very high, high, medium, or lower risk levels of exposure. Tasks that are similar in nature and expose employees to the same hazard may be grouped for classification purposes.

The Standard also provides in 16VAC25-220-10.E.1 provides in part:

> E. Application of this standard to a place of employment will be based on the exposure risk level presented by SARS-CoV-2 virus-related and COVID-19 disease-related hazards present or job tasks undertaken by employees at the place of employment as defined in this standard (i.e., very high, high, medium, and lower risk levels).
>
> 1. It is recognized that various hazards or job tasks at the same place of employment can be designated as very high, high, medium, or lower exposure risk for purposes of application of the requirements of this standard.

55. Employer's responsibility to establish screening procedures.

The Department respectfully disagrees with the Commenter's suggestion that the Standard "establishes company "Health officers" to become de facto certified, accredited, licensed doctors to diagnose symptoms and the health of employees." No such language is included in the Standard.

For instance, although it is a generally accepted practice, the Standard does not specifically require that employers check the temperatures of employees. 16VAC25-220-50.C.1 provides that "Prior to the commencement of each work shift, prescreening or surveying shall be required to verify each covered employee does not have signs or symptoms of COVID-19." Employers are provided the flexibility to determine what form of prescreening they will use to determine that "each covered employee does not have signs or symptoms of COVID-19."

OSHA provides guidance on screening employees in the construction industry that can be used by non-medical personnel at: https://www.osha.gov/SLTC/covid-19/construction.html.

56. Sick leave issue.

The Department does not plan to recommend changes to sick leave provisions in the Final Standard.

The Standard does not require employers to provide sick leave to employees. It does reference the Families First Coronavirus Response Act (FFCRA) at 16VAC25-220-40.B.6:

> 6. To the extent feasible and permitted by law, including but not limited to the Families First Coronavirus Response Act, employers shall ensure that sick leave policies are flexible and consistent with public health guidance and that employees are aware of these policies.

Further information about the FFCRA and sick leave policies can be found at: https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave

57. Notification requirement for tenants.

The Standard does not apply to non-business tenants in an apartment building.

The Department does not plan to recommend that the notification requirements to tenants be removed from the Standard. The Department notes that the Standard does not apply to non-business tenants in an apartment building. The intent of the notification requirement is to provide employees information of a "possible" exposure so that employees can make decisions for themselves on the appropriate course of action to take.

58. Hand sanitizers.

The Department does not intend to recommend the removal of hand sanitizers from the Standard. Use of hand sanitizers is well-recognized method to mitigate the spread of SARS-CoV-2. Also see DOLI Frequently Asked Questions §40, FAQ 9 and §40, FAQ 17 at: https://www.doli.virginia.gov/conronavirus-covid-19-faqs/ Handwashing facilities, which are required in OSHA and VOSH standards and regulations, are not always immediately or readily accessible for employees who need to disinfect their hands without leaving their immediate work area.

59. Notification to Department of Health.

The Department does not plan to recommend the elimination of reporting requirements to the Department of Health, although it does intend to recommend a change to the trigger number of positive cases.

DOLI and the Virginia Department of Health (VDH) have collaborated on a Notification Portal for employers to report COVID-19 cases in accordance with Emergency Temporary Standard (ETS) Sections 16VAC25-220-40.B.8.d and -40.B.8.e that satisfies COVID-19 reporting requirements for both agencies. The portal went live on September 28, 2020. Here is a link:

https://www.doli.virginia.gov/report-a-workplace-fatality-or-severe-injury-or-covid-19-case/

60. Whistleblower refusal to work provision.

The Department does not plan to recommend eliminating the Whistleblower provision regarding refusal to work referenced by the Commenter.

16VAC25-220-90.D was added by the Safety and Health Codes Board, not by DOLI. It is a restatement of current regulatory requirements in 16VAC25-60-110 and specifically refers to that section, and is considered by the Board to be a restatement of employee rights consistent with current law.

61. Classification of hazards and job tasks.

The Standard already requires that employers assess and classify the types of hazards employees are exposed to and the type of job tasks they undertake, in accordance with the requirements in 16VAC25-220-40.B.

62. PPE hazard assessments under 1910.132 and the ETS.

16VAC25.60.D.1 provides that "Employers covered by this section and not otherwise covered by the VOSH Standards for General Industry (16VAC25-90-1910)...." which means it applies to those employers not in general industry. If, as the Commenter notes, they have already completed a hazard assessment under 1910.132 that addressed SARS-CoV-2 and COVID-19 related hazards and job tasks, then they do not have to complete another one.

It is the Department's position that general industry employers are required to update their pre-COVID-19 PPE hazard assessments.

63. Notification to employers about the ETS.

While the Department constantly strives to improve information dissemination about its programs, and will continue to look for new ways to do so, it feels that there was widespread notice to the business community and the general public about the adoption of the Emergency Temporary Standard through print, television, and social media.

64. PPE and Respirators in Prison and Jail Environments.

It is the Department's position that general industry employers, such as prisons and jails, are required to update their pre-COVID-19 PPE hazard assessments and take into account SARS-CoV-2 and COVID-19 related hazards and job tasks, particularly where known COVID-19 persons are housed. In such situations, it is the Department's position that enhanced personal protective equipment beyond face coverings, up to and including respirators, would be a minimum requirement under 1910.132 and 1910.134 in certain situations.

65. COVID-19 Employee Deaths.

The Department notes that in recent years, VOSH has investigated an average of approximately 35 to 40 occupationally related fatalities per year. As of October 30, 2020, VOSH has investigated over 30 employee deaths attributable to COVID-19 alone. The large majority of those cases remain under investigation to determine if they were occupationally related or not, and if occupationally related, whether violations of the Emergency Temporary Standard or mandatory requirements in Governor's Executive Orders should be cited or not.

66. PPE supply and cost; insurance reimbursement.

The Department does not have legal authority to regulate supply chains for items such as personal protective equipment (PPE) and other products, but is well aware of the shortages of such items at various times as N-95 respirators, cleaning and disinfecting chemicals, hand sanitizer and other medical products to provide safety and health protections to employees.

The Standard was designed to provide employers with flexibility and takes into account the "feasibility" of an employer to comply with certain requirements, particularly in areas involving PPE that is not readily commercially available at this time.

See Federal OSHA's" Enforcement Guidance for Respiratory Protection and the N95 Shortage Due to the Coronavirus Disease 2019 (COVID-19) Pandemic" (which employers in Virginia can rely on) for further information and guidance on respiratory protection. https://www.osha.gov/memos/2020-04-03/enforcement-guidance-respiratory-protection-and-n95-shortage-due-coronavirus

Please note that price gouging complaints during a state of emergency in Virginia can be filed with the Office of the Attorney General (OAG): https://www.oag.state.va.us/consumer-protection/index.php?option=com_content&view=article&id=181#:~:text=File%20a%20Price%20Gouging%20complaint,Office%20of%20Weights%20and%20Measures.

The Department does not have legal authority to regulate the rate at which insurance companies reimburse medical practices.

67. Technical feasibility definition.

The Standard's definition of "technical feasibility" is based on a longstanding definition contained the VOSH Field Operations Manual (FOM) and federal OSHA's FOM. The Department does not intend to recommend any change to the definition.

68. Infeasibility defense.

Feasibility is defined (based on longstanding definitions of OSHA and VOSH in their respective Field Operations Manuals) and referenced numerous times in the Standard to provide a level of flexibility to employers to achieve compliance with the requirements of the Standard and to mitigate the spread of SARS-CoV-2 to employees while at work.

Here is a summary of the defense:

Infeasibility Defense (previously known as the “impossibility” defense)

A citation may be vacated if the employer proves that:

1. The means of compliance prescribed by the applicable standard would have been infeasible under the circumstances in that either:

   a. Its implementation would have been technologically or economically infeasible or

   b. Necessary work operations would have been technologically or economically infeasible after its implementation; and

2. Either:

   a. An alternative method of protection was used or

   b. There was no feasible alternative means of protection.

NOTE: Evidence as to the unreasonable economic impact of compliance with a standard may be relevant to the infeasibility defense.

Source: Occupational Safety and Health Law, Randy S. Rabinowitz, 2nd Edition (2002)

69. Signs and symptoms.

The Department intends to recommend changes to the Standard to update references to signs, symptoms and symptomatic.

70. Human resource policies.

The Department respectfully disagrees with the Commenter's assertion that mitigation strategies (referred to by the Commenter as "human resource policies") to prevent the spread of SARS-CoV-2 in the workplace, exceeds the authority of the Board.

The Department intends to recommend some language changes to the provisions referenced by the Commenter.

71. Infectious disease preparedness and response plan.

The Department does not intend to recommend any change to which employers are required to develop and implement an Infectious disease preparedness and response plan under 16VAC25-220-70. The current requirement exempts employers with 10 or fewer employees which eases the burden on the smallest employers with the most limited resources. The Department notes that a free template for a plan is provided on the Department’s website at: https://www.doli.virginia.gov/covid-19-outreach-education-and-training/

In addition, the Department strongly encourages Virginia’s small business owners to take advantage of free and confidential occupational safety and health onsite and virtual

consultation and training services to address COVID-19 compliance issues. More information about the VOSH Consultation Services can be found at: https://www.doli.virginia.gov/vosh-programs/consultation/

72. Definition of employee.

The Department does not intend to recommend a change to the definition of "employee" in the Standard, which reflects current statutory, regulatory and case law.

73. Definition of medium.

The Department does not intend to change the definition of medium risk exposure. That definition applies to SARS-CoV-2 and COVID-19 related hazards and job tasks, not "jobs."

74. Surgical/medical procedure mask definition.

The Department does not intend to change the definition of surgical/medical procedure mask as that definition is consistent with Food and Drug Administration (FDA) guidance. The FDA regulates surgical/medical procedure masks.

75. Multi-employer worksites where there is no contractual relationship between the employers.

The Department does not plan to recommend that the notification requirements to subcontractors, etc., referenced by the Commenter, be removed from the Standard.

The intent of the notification requirement is to provide employees information of a "possible" exposure so that employees can make decisions for themselves on the appropriate course of action to take. The Department notes that the notification provision in the Standard referenced by the Commenter would only require notification by the employer to one of its own subcontractors. So in the situation described by the Commenter, vendor number one with a known to be infected employee would only be required to notify another vendor number two at the site, if vendor number two was a subcontractor to the vendor number one.

76. Physical distancing in construction.

The Department agrees with the Commenter that when physical distancing can be maintained - either indoors or outdoors - that is a preferred method of mitigating the spread of the SARS-CoV-2 virus. Conversely, when physical distancing cannot be observed – whether inside or outside – the Standard requires the employer consider other mitigation strategies.

77. OSHA and DOT jurisdiction issues for trucking companies.

The Commenter notes that federal OSHA states, "While traveling on public highways, the [U.S.] Department of Transportation (DOT) has jurisdiction. However, while loading and unloading trucks, OSHA regulations govern the safety and health of the workers and the responsibilities of employers to ensure their safety at the warehouse, at the dock, at the rig, at the construction site, at the airport terminal and in all places

truckers go to deliver and pick up loads." https://www.osha.gov/trucking-industry/other-federal-agencies

However, the above statement is not as straightforward as it seems. Congress, in section 4(b)(1) of the OSH Act of 1970, took into account the other Federal agencies which in the exercise of their statutory responsibilities may issue regulations or standards which affect occupational safety and health issues. Section 4(b)(1) provides, in pertinent part:

> Nothing in this Act shall apply to working conditions with respect to which other Federal agencies . . . exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

The various federal Circuits across the United States have interpreted section 4(b)(1) and its application differently. For instance, a discussion by OSHA of how the 4th Circuit, which includes Virginia, has ruled states:

> "The most common type of circumstances involving section 4(b)(1) of the OSH Act is where there is a statute whose primary purpose is to protect the public and transportation equipment but which also protects employees in the sense that in the effort to protect the public, the employees are also protected. Examples of this type of legislation are most of the statutes administered and enforced by the Department of Transportation (DOT). A practical example is the Federal Aviation Administration (FAA) In FAA's efforts to protect the flying public and air transport cargo, the crew of the aircraft are necessarily protected at the same time by the same FAA regulations.
>
> Whenever a Section 4(b)(1) issue is presented in the context of a DOT statute which is designed to protect the public, transportation equipment, or cargo, the issue is usually of the type that is known popularly as the "gap theory," or "hazard-by-hazard" approach. That is, the question is whether the other agency has an enforceable regulation which, if that agency chooses to enforce that regulation, would reduce or eliminate the workplace hazard in question. If the other agency has no such regulation applicable to the hazard, then there exists a "gap" in worker protection which is filled by the residual jurisdiction of the OSH Act with its very broad coverage intended by Congress as the means for assuring ". . . . every working man and woman in the Nation safe and healthful working conditions." Sec. 2(b), OSH Act, P.L. 91-596; see also, Northwest Airlines, Inc., 8 OSHC 1982, 1980 OSHD 24,751 (1980), petition for review dismissed, Nos. 80-4218, 80-4222 (2d Cir. 1981).
>
> The so called "gap theory" has also been upheld by the courts. In the courts' decision, however, this same issue is cast in terms of' the Section 4(b)(1) term "working conditions." In general, it can be stated that the following line of appellate court decisions affirm the "hazard-by-hazard" approach even though the courts sometimes have chosen different words which have to be explained and understood in context. For example, in Southern Railway v. OSHRC, 539 F.2d 335 (4th Cir. 1976) cert. denied 429 U.S. 999, 97 S.Ct. 525, the Fourth Circuit defined the term "working conditions" in Section 4(b)(1) as meaning "the

environmental area in which an employee customarily goes about his daily tasks." That phrase of the court's decision seems to extend the term "working conditions" beyond hazards, but the phrase is not clear because while geographically, so to speak, the environmental area is broad under that decision, the "area" has no meaning if not viewed in terms of the regulations and hazards present in that area."

A far better articulation of the "hazard-by-hazard" approach is found in a Fifth Circuit case; that is, in Southern Pacific v. Usery, 539 F.2d 386 (5th Cir. 1976), cert. denied 434 U.S. 874, 98 S.Ct. 222. In this case, the Fifth Circuit defined the term "working conditions" in Section 4(b)(1) to mean to include "surroundings" or "hazards" which the court stated could be a location, a grouping of items, or a single item. In Southern Railway in the Fourth Circuit and the Fifth Circuit's Southern Pacific definitions, we see, when viewed together, a narrowing of the term "working conditions." The most recent decisions even more clearly articulate the scope of Section 4(b)(1); that is, if the other agency's regulation (or the lack of one) does not cover the hazard in question, then the OSH Act's requirements are not preempted. For example, in Donovan v. Red Star Marine Services Inc., 739 F.2d 774 (2d Cir. 1984), cert. denied 470 U.S. 1003, 105 S.Ct. 1355, the Second Circuit did not preempt OSHA's regulation of noise aboard an inspected vessel because, while the Coast Guard generally covered such vessels, the Coast Guard confined its regulation to life saving and fire-fighting equipment and had issued no noise abatement regulation. The Eleventh Circuit also analyzed a Section 4(b)(1) issue in the same way. In re Inspection of Norfolk Dredging Co., 783 F.2d 1526 (11th Cir. 1986), reh. denied, 790 F.2d 88 (11th Cir. 1986), cert. denied 107 S.Ct. 271 (1986), the Eleventh Circuit did not preempt OSHA application to crane operations because the Coast Guard simply did not have regulations addressing crane hazards. The Eleventh Circuit in Norfolk Dredging stated that, "the effect of Section 4(b)(1) turns upon the precise working conditions at issue . . ."

....

There is no industry-wide exemption for motor vehicle common carriers, Greyhound Lines. Inc., 5 OSHC 1132, 1977-78 OSHD 21,610 (1977), nor is there any industry-wide exemption for over-the-road truckers, Lee way Motor Freight. Inc., 4 OSHC 1968, 1976-77 OSHD 21,464 (1977).

However, as discussed previously in the analysis of the term "working conditions" or the "gap theory," if OMCS has a regulation addressing a certain working condition (or hazard), then OSHA would be preempted from applying its standards to that hazard. The lead OSHA case on this issue under Section 4(b)(1) in the context of OMCS' jurisdiction is Mushroom Transportation Co., Docket No. 1588, 1973-74, CCH OSHD 16,881 (R.C. 1973). Mushroom involved the hazard of possible movement of trucks while they were being loaded or unloaded with the use of powered industrial trucks. Both OSHA and OMCS had regulations dealing with brakes as well as other methods of preventing unwanted movement of a

truck during loading and unloading operations. The Commission held that because the OMCS had such a regulation covering the same hazard as the OSHA standard, the OSH Act's standard was held inapplicable pursuant to the provisions of section 4(b)(1) of the OSH Act.(1)

....

Mushroom also stands for the proposition that the other agency's regulation need not be as stringent as the OSHA standard to effectuate preemption of the OSH standard. The Review Commission stated:

Once another Federal agency exercises its authority over specific working conditions, OSHA cannot enforce its own regulations covering the same conditions. Section 4(b)(1) does not require that another agency exercise its authority in the same manner or in an equally stringent manner. [Footnote omitted; emphasis supplied.] Mushroom, supra, 16,881 at 21,491.

To our knowledge, there have been no decisions of OSHRC or the courts since Mushroom specifically involving truck or bus operators. Citations have been issued, but these were mainly for alleged violations in loading areas and maintenance and repair shops.

....

In conclusion, as we can see from the cases, there are three main principles in 4(b)(1) situations: (1) OSHA cannot enforce its authority with respect to working conditions over which another Federal agency has exercised its authority even if the other agency's standards are not as stringent or as stringently enforced as OSHA's; (2) if a Federal agency fails to exercise its authority with respect to working conditions, OSHA has jurisdiction to inspect and to cite for violations of standards; and (3) a negative exercise of authority can oust OSHA from jurisdiction. It must be noted, however, that 4(b)(1) situations must be considered on a case by case basis and deference given to a sister agency's interpretation of its authority. (Emphasis added).

https://www.osha.gov/laws-regs/standardinterpretations/1989-07-10

78. Serologic testing.

The serologic testing language in the Standard is consistent with CDC guidance.

https://www.cdc.gov/coronavirus/2019-ncov/lab/resources/antibody-tests-guidelines.html

79. Applicable industry standards.

OSHA and VOSH standards and regulations fall into the following categories: Construction Industry, Agricultural Industry, Maritime Industry and General Industry

(all employers not covered by Construction, Agricultural or Maritime Industry Standards are covered by the General Industry Standards.

80. Briefing package for ETS.

The Department's Briefing Package on the Emergency Temporary Standard with background and legal justifications can be found at: https://www.doli.virginia.gov/wp-content/uploads/2020/06/BP-Emergency-Regulation-Under-2.2-4011-SARS-CoV-2-That-Causes-COVID-19-FINAL-6.23.2020.pdf

81. Occupancy limit.

The current "occupancy limit" language in the Standard provides flexibility for employer to decide how best to mitigate the spread of SARS-CoV-2. While the Commenter's suggestion to incorporate a FEMA recommendation of 113 square feet per person could serve as one method for an employer to determine occupancy limits, it would increase the compliance burden on employers generally and is not recommended by the Department.

82. Training period for Infectious disease preparedness and response plan.

The Department does not intend to recommend any change to train employees on the Infectious disease preparedness and response plan under 16VAC25-220-70, currently set at 60 days. In addition, the Department strongly encourages Virginia's small business owners to take advantage of free and confidential occupational safety and health onsite and virtual consultation and training services to address COVID-19 compliance issues. More information about the VOSH Consultation Services can be found at: https://www.doli.virginia.gov/vosh-programs/consultation/

83. Multi-employer worksite situations.

In situations involving multi-employer worksites, the Department has a regulation on the subject multi-employer worksite responsibilities and the multi-employer worksite defense, which can be found at 16VAC25-60-260.F and -260.G. http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+16VAC25-60-260. Additional information can also be found on the topic in the VOSH Field Operations Manual at https://townhall.virginia.gov/L/ViewGDoc.cfm?gdid=5354.

84. General duty clause uses and limitations.

The Department's Briefing Package on the Emergency Temporary Standard with background on the use and limitations of the general duty clause: https://www.doli.virginia.gov/wp-content/uploads/2020/06/BP-Emergency-Regulation-Under-2.2-4011-SARS-CoV-2-That-Causes-COVID-19-FINAL-6.23.2020.pdf

85. Six foot physical distancing requirement.

The Department does not intend to revise the definition of physical distancing or to eliminate physical distancing as a recognized mitigation strategy. The six foot physical distancing requirement remains a best practice recognized by the CDC and VDH.

86. Medical removal.

The Department does not intend to recommend the addition of medical removal protections to the Standard.

[OPTION 2: The Department does not intend to recommend the addition to the standard of medical removal protections or guaranteed compensation requirements for employees who are away from work due to COVID-19 issues.]

Some employees will be able to use sick leave during the time they are away from work. While the Standard does not require employers to provide sick leave to employees, it does reference the Families First Coronavirus Response Act (FFCRA) at 16VAC25-220-40.B.6:

> 6. To the extent feasible and permitted by law, including but not limited to the Families First Coronavirus Response Act, employers shall ensure that sick leave policies are flexible and consistent with public health guidance and that employees are aware of these policies.

Further information about the FFCRA and sick leave policies can be found at: https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave

Some employees will be able to receive workers' compensation while they are away from work. http://www.vwc.state.va.us/sites/default/files/documents/COVID-19-Statistics-FAQs_0.pdf

87. Employee involvement.

The Department does not intend to recommend any additional employee involvement language to the Standard. Such involvement is currently required in 16VAC25-220-50.D.1.a, 16VAC25-220-60.D.1.a, and 16VAC25-220-70.C.2.

88. Records of PPE stockpile (inventory) and availability.

The Department does not intend to recommend adding a requirement for employer to maintain records of PPE stockpile (inventory) and availability; however, the Department does intend to recommend revised language to 16VAC25-220-70.C.4.d that employers required to maintain an Infectious disease preparedness and response plan address contingency plans for situations where supply chains for safety and health related products and services may be impacted by the pandemic.

89. Mobile employees working at private homes.

The Commenter references the difficulties with providing employee safety and health protections for mobile employees that work at private homes.

First, it should be noted that the Standard does not address the rights or protections of the general public, and more specifically, it does not contain a face covering mandate for the general public. That issue is the purview of the Virginia Department of Health and Governor's Executive Orders (e.g., Executive Order 63).

The Commenter represents an industry that has always been covered by 1910.132, Personal Protective Equipment Standard, which requires employers to conduct hazard assessments of the workplace to determine what PPE is required. This includes an assessment of what kind of infectious disease hazards employees might encounter, pre- and post-COVID19, when visiting a private home. The Standard does not change this basic requirement for the Commenter's industry, so there should be no confusion about what protections such employer's need to provide. If pre-COVID-19, such an employer rightly considered the potential for its employees to be exposed to, for instance, tuberculosis at a private home, conducting the same type of assessment for COVID-19 should not present any substantial difficulties.

90. ASHRAE legal issue and air handling issues.

The Department notes that the ASHRAE air handling requirements are undergoing a legal review which may result in recommended changes that could address some of air handling issues raised by the Commenter.

91. N-95 respirator determinations.

The issue of N-95 respirators raised by the Commenter is appropriate to address during the personal protective equipment (PPE) hazard assessment process required in General Industry under 1910.132.

92. Employee Involvement.

The Department does not intend to recommend any additional employee involvement language to the Standard. Such involvement is currently required in 16VAC25-220-50.D.1.a, 16VAC25-220-60.D.1.a, and 16VAC25-220-70.C.2.

93. Paid time for cleaning.

The Department does not intend to recommend adding requirements that employers be required to provide pay for cleaning activities by employees. Payment of wage issues fall under Va. Code §40.1-29, https://law.lis.virginia.gov/vacode/40.1-29/, and not within the enabling statutes of the VOSH program.

94. Disinfectant selection.

The Department does not intend to recommend revising the standard to address the Commenter's concern about those disinfectants containing substances known to cause adverse health effects, such as those containing quaternary ammonia that is a known respiratory irritant. That issue is more appropriately dealt with under the requirements of the Hazard Communication Standard applicable to the employer's industry.

95. Face shield.

The Department intends to recommend revisions to the Standard dealing with face shield issues.

96. Jail and correctional facility issues.

The Department does not intend to recommend revising the Standard to address access and egress issues at jails and correctional facilities. Control over access and egress issues at jails and correctional facilities falls under the purview of either the controlling authority and/or the Virginia Department of Health.

The Department does not intend to recommend any changes to the pre-screening requirements in the Standard. 16VAC25-220-50.C.1 provides that "Prior to the commencement of each work shift, prescreening or surveying shall be required to verify each covered employee does not have signs or symptoms of COVID-19." Employers are provided the flexibility to determine what form of prescreening they will use to determine that "each covered employee does not have signs or symptoms of COVID-19."

The Commenter references industries that have always been covered by 1910.132, Personal Protective Equipment Standard, which requires employers to conduct hazard assessments of the workplace to determine what PPE is required. This includes an assessment of what kind of infectious disease hazards employees might encounter, pre- and post-COVID19, when visiting a private home. The Standard does not change this basic requirement for the Commenter's industry, so there should be no confusion about what protections such employer's need to provide. If pre-COVID-19, such an employer rightly considered the potential for its employees to be exposed to, for instance, tuberculosis at a private home, conducting the same type of assessment for COVID-19 should not present any substantial difficulties. The proper assessment will determine whether and what kind of PPE and/or respiratory protection equipment is required.

The Department notes that the Standard that employee involvement is currently required for hazard assessment determinations in 16VAC25-220-50.D.1.a and 16VAC25-220-60.D.1.a.

97. Definition of "May be infected with SARS-CoV-2 virus".

The Department does not intend to recommend that the definition of "May be infected with SARS-CoV-2 virus" be removed from the Standard. While many people become infected with SARS-CoV-2 in community settings that are not work-related, every person that becomes infected who is also an employee becomes a potential workplace source and transmitter of the virus if they report to work while still capable of transmitting the disease. There are numerous documented examples of the workplace spread SARS-CoV-2, which is also considered to be highly contagious. The introduction of an infectious disease into a workplace setting, regardless of the source, constitutes a workplace health hazard subject to regulation and enforcement by VOSH. The VOSH program has clear statutory and regulatory jurisdiction over workplace safety and health issues in the Commonwealth, including the potential for spread of infectious diseases

among employees and employers, and when those employees and employers are potentially exposed to other persons who may be carriers of the infectious diseases (patients, customers, independent contractors, etc.).

98. Occupational exposure definition.

The Department does not intend to recommend that the definition of "occupational exposure" be revised. It is based on a longstanding definition contained the VOSH Field Operations Manual (FOM) and federal OSHA's FOM.

99. Definition of "Suspected to be infected with SARS-CoV-2 virus".

The Department does not intend to recommend that the definition of "Suspected to be infected with SARS-CoV-2 virus." The definition includes persons who have not yet been tested for SARS-CoV-2.

100. Second jobs.

The Department does not intend to recommend changes to 16VAC25-220-70 based on the Commenter's suggestions. The Department is not aware of any legal restrictions against an employer establishing a policy that employees inform them about outside jobs.

101. Railroads.

The Commenter contends that Virginia's unique COVID-19 standard would present compliance burdens for its Railroad members because it differs from federal OSHA requirements that apply in states covered by federal OSHA jurisdiction. Virginia currently has nine other unique standards and regulations in addition to the proposed COVID-19 Standard that apply to the Commenter's members. https://www.doli.virginia.gov/vosh-programs/virginia-unique/. The Department sees no reason to treat the situation of its COVID-19 Standard any differently than the application of its other unique standards. We respectfully disagree that the act of comparing a particular CDC guideline that an employer wants to rely on to the language in Virginia's COVID-19 standard is an "impossible" task.

The Commenter also suggests that its members would have difficulty in "figuring out how to apply a different set of rules once a state border is crossed." The same argument could be made with regard to Virginia's other unique standards. Again, the Department sees no reason to treat the situation of its COVID-19 Standard any differently than the application of its other unique standards.

When Congress established the OSH Act of 1970, it had the opportunity to establish a system that would suit the needs of the Commenter's members, but it chose to allow states, such as Virginia, to apply for state plan status under §18 of the OSH Act. Virginia has such a state plan, and as a sovereign Commonwealth has the legal right to establish standards and regulations that are at least as effective as that of federal OSHA in providing protections for Virginia employees and employers, This includes the ability to adopt standards and regulations that are more stringent than federal OSHA's or cover a

hazard or industry that OSHA has yet to provide protective standards and regulations for.

The Department does not plan to recommend that 16VAC25-220-10.G be changed as suggested by the Commenter. It is the Department's position that similarly situated employees and employers exposed to the same or even more serious hazards or job task should all be provided the same basic level of safety and health protections. The Standard's language in 16VAC25-220-10.G assures such protections.

COMMONWEALTH of VIRGINIA

DEPARTMENT OF LABOR AND INDUSTRY

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August 19, 2021

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

PROPOSED AMENDMENTS TO STANDARD FOR INFECTIOUS DISEASE PREVENTION

OF THE SARS-COV-2 WHICH CAUSES COVID-19, 16VAC25-220

DEPARTMENT STANDARD RESPONSES TO ISSUES RAISED

BY PUBLIC COMMENTERS

Background

The Department received 268 written comments through the Virginia Regulatory Townhall for the 30 day written comment period from July 1, 2021 to July 31, 2021.

There were 19 written comments sent directly to the Department during the 30 day written comment period, although a number of those were also posted by the Commenter on the Virginia Regulatory Townhall.

There were 7 oral comments received during the public hearing on August 5, 2021.

Broadly speaking, the comments can be divided into those who supported the standard and those who opposed the standard. A standard Department response was developed on a number of issues:

For each of the above, the Department's response is provided once in detail and then thereafter a reference back to the initial Department response was provided (e.g. SEE DEPARTMENT RESPONSE TO COMMENT 99342).

COMMENTS POSTED ON THE VIRGINIA REGULATORY TOWNHALL

99342 Jonathan Bottoms
United Steelworkers Union local 12103 7/2/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99342

Vaccination discrimination. On behalf of my Union body, and many others who have suffered at the hand of these standards, I do not support the changes in this standard that open the door for discrimination against individuals who choose not to receive this vaccination. We, as a state & a country, need to move forward together - without infringing on anyone's freedom to choose what is best for their own body. As someone who has contracted COVID-19 myself, I would like to know why there is no language about immunity gained from natural antibodies? Additionally, why should a non-vaccinated person be required to wear a mask while working next to someone who is vaccinated? This, in my opinion, casts doubt on the effectiveness of the vaccines all together. As is true of anything in life, we must all retain our right to form opinions & make our own decisions accordingly. These amendments will create more division & promote animosity amongst co-workers, employees, and employers. The analogy I think about here is a very simple one, comparing mask usage to wearing a seatbelt - I choose to wear my seatbelt to protect myself & my family, but I cannot & will not try to force my beliefs behind that choice on anyone else. These are decisions that people must make for themselves. The leaders of our great state have the opportunity here to restore a sense of normalcy to a population that severely needs it. I, for one, hope that we can ALL move past this pandemic, together, without divisive regulations. I was raised to shake hands & make direct eye contact with those who I respect, and that is exactly what I intend to do from here on out - regardless of my lack of the check-in-the-box that is a vaccination card.

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

On July 9, 2021, the CDC has estimated that "Preliminary data from several states over the last few months suggest that 99.5% of deaths from COVID-19 in the United States were in unvaccinated people."

"CDC Director Rochelle Walensky said that cases, hospitalizations and deaths from the coronavirus are increasing nationwide, adding that over 97% of new hospitalizations are in patients who are unvaccinated."
The Department has relied heavily on guidance from the CDC and federal OSHA in developing the VOSH Standard because they are the two primary national authorities on infectious disease transmission in the workplace.
The CDC has provided detailed guidance on the need for and efficacy of COVID-19 vaccines and what mitigation strategies should be used by persons and businesses to slow the spread of the virus. They have also issued guidance on what precautions should be observed by those who have been fully vaccinated.

"On July 27, 2021, CDC released updated guidance on the need for urgently increasing COVID-19 vaccination coverage and a recommendation for everyone in areas of substantial or high transmission to wear a mask in public indoor places, even if they are fully vaccinated. CDC issued this new guidance due to several concerning developments and newly emerging data signals. First is a reversal in the

downward trajectory of cases. In the days leading up to our guidance update, CDC saw a rapid and alarming rise in the COVID case and hospitalization rates around the country.
• In late June, our 7-day moving average of reported cases was around 12,000. On July 27, the 7-day moving average of cases reached over 60,000. This case rate looked more like the rate of cases we had seen before the vaccine was widely available.

[As of August 11, 2021,"the current 7-day moving average of daily new cases (114,190) increased 18.4% compared with the previous 7-day moving average (96,454). The current 7-day moving average is 66.3% higher compared to the peak observed on July 20, 2020 (68,685). The current 7-day moving average is 65.0% lower than the peak observed on January 10, 2021 (254,023) and is 882.8% higher than the lowest value observed on June 19, 2021 (11,619)."]

Second, new data began to emerge that the Delta variant was more infectious and was leading to increased transmissibility when compared to other variants, even in vaccinated individuals. This includes recently published data from CDC and our public health partners, unpublished surveillance data that will be publicly available in the coming weeks, information included in CDC's updated Science Brief on COVID-19 Vaccines and Vaccination, and ongoing outbreak investigations linked to the Delta variant. Delta is currently the predominant strain of the virus in the United States."

As of August 16, 2021:
55.2% of the Virginia population is fully vaccinated. 66.3% of the adult Virginia population is fully vaccinated. 62.3% of the Virginia populations is vaccinated with at least one dose of the vaccine.
The current 7-day positivity rate PCR only in Virginia is 8.2%.
The 7-day average of number of new cases reported in Virginia is 2,058.

It continues to remain the CDC's position that persons who have previously have COVID-19 should get vaccinated "because experts do not yet know how long you are protected from getting sick again after recovering from COVID-19." In addition, "Studies have shown that vaccination provides a strong boost in protection in people who have recovered from COVID-19."

A recent study published in the CDC's Morbidity and Mortality Weekly Report on August 13, 2021 found that:
Although laboratory evidence suggests that antibody responses following COVID-19 vaccination provide better neutralization of some circulating variants than does natural infection, few real-world epidemiologic studies exist to support the benefit of vaccination for previously infected persons. This report details the findings of a case-control evaluation of the association between vaccination and SARS-CoV-2 reinfection in Kentucky during May–June 2021….
Among Kentucky residents infected with SARS-CoV-2 in 2020, vaccination status of those reinfected during May–June 2021 was compared with that of residents who were not reinfected. In this case-control study, being unvaccinated was associated with 2.34 times the odds of reinfection compared with being fully vaccinated.
https://www.cdc.gov/mmwr/volumes/70/wr/mm7032e1.htm

How Long Does Vaccine Immunity Last?
USAToday.com, August 19, 2021, "Vaccine effectiveness declines over time, studies say"
Protection provided by COVID-19 vaccines declines over time, but protection against the most severe effects of the disease — including hospitalization and death — remains strong, according to three studies published Wednesday by the Centers for Disease Control and Prevention.
Morbidity and Mortality Weekly Report (MMWR), August 18, 2021, "New COVID-19 Cases and Hospitalizations Among Adults, by Vaccination Status — New York, May 3–July 25, 2021"

In this study, current COVID-19 vaccines were highly effective against hospitalization ([vaccine effectiveness] VE >90%) for fully vaccinated New York residents, even during a period during which prevalence of the Delta variant increased from <2% to >80% in the U.S. region that includes New York, societal public health restrictions eased,§§ and adult full-vaccine coverage in New York neared 65%. However, during the assessed period, rates of new cases increased among both unvaccinated and fully vaccinated adults, with lower relative rates among fully vaccinated persons. Moreover, VE against new infection declined from 91.7% to 79.8%. To reduce new COVID-19 cases and hospitalizations, these findings support the implementation of a layered approach centered on vaccination, as well as other prevention strategies.
https://www.cdc.gov/mmwr/volumes/70/wr/mm7034e1.htm?s_cid=mm7034e1_w

Morbidity and Mortality Weekly Report (MMWR), August 18, 2021, " Effectiveness of Pfizer-BioNTech and Moderna Vaccines in Preventing SARS-CoV-2 Infection Among Nursing Home Residents Before and During Widespread Circulation of the SARS-CoV-2 B.1.617.2 (Delta) Variant — National Healthcare Safety Network, March 1–August 1, 2021"
Analysis of nursing home COVID-19 data from NHSN indicated a significant decline in effectiveness of full mRNA COVID-19 vaccination against laboratory-confirmed SARS-CoV-2 infection, from 74.7% during the pre-Delta period (March 1–May 9, 2021) to 53.1% during the period when the Delta variant predominated in the United States. This study could not differentiate the independent impact of the Delta variant from other factors, such as potential waning of vaccine-induced immunity. Further research on the possible impact of both factors on VE among nursing home residents is warranted. Because nursing home residents might remain at some risk for SARS-CoV-2 infection despite vaccination, multipronged COVID-19 prevention strategies, including infection control,§§ testing, and vaccination of nursing home staff members, residents, and visitors are critical.
https://www.cdc.gov/mmwr/volumes/70/wr/mm7034e3.htm?s_cid=mm7034e3_w

Medrxiv.org, August 8, 2021, "Comparison of two highly-effective mRNA vaccines for COVID-19 during periods of Alpha and Delta variant prevalence"
Although clinical trials and real-world studies have affirmed the effectiveness and safety of the FDA-authorized COVID-19 vaccines, reports of breakthrough infections and persistent emergence of new variants highlight the need to vigilantly monitor the effectiveness of these vaccines. Here we compare the effectiveness of two full-length Spike protein-encoding mRNA vaccines from Moderna (mRNA-1273) and Pfizer/BioNTech (BNT162b2) in the Mayo Clinic Health System over time from January to July 2021, during which either the Alpha or Delta variant was highly prevalent. We defined cohorts of vaccinated and unvaccinated individuals from Minnesota (n = 25,589 each) matched on age, sex, race, history of prior SARS-CoV-2 PCR testing, and date of full vaccination.
Both vaccines were highly effective during this study period against SARS-CoV-2 infection (mRNA-1273: 86%, 95%CI: 81-90.6%; BNT162b2: 76%, 95%CI: 69-81%) and COVID-19 associated hospitalization (mRNA-1273: 91.6%, 95% CI: 81-97%; BNT162b2: 85%, 95% CI: 73-93%).
However, in July, the effectiveness against infection was considerably lower for mRNA-1273 (76%, 95% CI: 58-87%) with an even more pronounced reduction in effectiveness for BNT162b2 (42%, 95% CI: 13-62%).
https://www.medrxiv.org/content/10.1101/2021.08.06.21261707v1

The Department of Labor and Industry (DOLI) has consulted with the Virginia Department of Health (VDH) about whether REVISIONS should be recommended to the Board's Proposed Amendments to the VOSH Standard originally adopted on June 29, 2021, in response to the CDC's updated guidance for fully vaccinated people issued on July 27, 2021 (requirement in certain situations for fully vaccinated employees to wear face coverings in areas of substantial or high transmission).
https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

DOLI and VDH are in agreement that some REVISIONS should be recommended to the Board along with the Governor's amendment to 16VAC25-220-10.E.(https://www.doli.virginia.gov/wpcontent/uploads/2021/07/Summary-of-Governor-Northams-Review-of-Proposed-Amendmentsto-16VAC25-220-7.1.2021.pdf).

The Dept. invites the public to comment on the Revised Proposed Amendments to the VOSH Standard by using the Townhall Comment Forum here. The forum will be open for 7 days from August 16, 2021 to August 23, 2021. https://townhall.virginia.gov/L/ViewNotice.cfm?GNid=1309

USA Today, August 19, 2021, "Vaccine effectiveness declines over time, studies say"
Protection provided by COVID-19 vaccines declines over time, but protection against the most severe effects of the disease — including hospitalization and death — remains strong, according to three studies published Wednesday by the Centers for Disease Control and Prevention. (Emphasis added).
https://www.usatoday.com/story/news/health/2021/08/19/covid-vaccine-mask-mandates-biden-administration/8189622002/

Morbidity and Mortality Weekly Report (MMWR), August 18, 2021, "Sustained Effectiveness of Pfizer-BioNTech and Moderna Vaccines Against COVID-19 Associated Hospitalizations Among Adults — United States, March–July 2021"

In a multistate network that enrolled adults hospitalized during March–July 2021, effectiveness of 2 doses of mRNA vaccine against COVID-19–associated hospitalization was sustained over a follow-up period of 24 weeks (approximately 6 months). These findings of sustained VE were consistent among subgroups at highest risk for severe outcomes from COVID-19, including older adults, adults with three or more chronic medical conditions, and those with immunocompromising conditions. Overall VE in adults with immunocompromising conditions was lower than that in those without immunocompromising conditions but was sustained over time in both populations.

These data provide evidence for sustained high protection from severe COVID-19 requiring hospitalization for up to 24 weeks among fully vaccinated adults, which is consistent with data demonstrating mRNA COVID-19 vaccines have the capacity to induce durable immunity, particularly in limiting the severity of disease (9,10). Alpha variants were the predominant viruses sequenced, although Delta variants became dominant starting in mid-June, consistent with national surveillance data (8). Because of limited sequenced virus, Delta-specific VE was not assessed. VE was similar during June–July when circulation of Delta increased in the United States compared with VE during March–May when Alpha variants predominated, although further surveillance is needed.
https://www.cdc.gov/mmwr/volumes/70/wr/mm7034e2.htm?s_cid=mm7034e2_w

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99346 Johnny Jacobs 7/2/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99346
Permanent Covid amendments
This permanent covid was way to late and made pernanent as the vaccine was rolling out to the public. My issue is it being behind with the cdc guidance. I'm fully vaccinated yet at my job everybody vaccinated or not has to wear a mask., This bit of freedom of choice should be eliminated as it comes to the vaccine. Employers should mandate their employees to be vaccinated or leave. If you gettin covid was only affecting the individual yes that's their choice whether to get vaccinated but that's not the

case. Unvaccinated people are spreading that crap to others. U have no right to be able to do that. At the least it would be nice for the vaccinated people to have a choice to wear the mask or not. If ur unvaccinated wear the mask should be mandatory. That would maybe get more to get vaccinated if that was enforced. But I truly believe it's an employers right to mandate this vaccine to their employees. They are the real problem and the reason the delta variant is out.,
SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99360 Josh Phelps 7/8/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99360

Opposition to the EPS and any amendments. If the mission of any mitigation strategies for Covid-19 is still to limit the overwhelming of hospitals, that has been completely accomplished based on the VDH data in the graph above. The darkest blue is current hospitalizations for CV-19 and the dotted yellow is surge capacity (not overwhelmed capacity). As can be seen, we have never been anywhere near capacity nor in danger of overwhelming the hospital beds. Shown is Northwest region, but all graphs show the same overall trends. If the mission of any mitigation strategy is something other than preventing hospitals from becoming overwhelmed, then that should be explained by the DOLI board at the outset.

The % positivity rates are also as low as they've ever been, even before any executive orders were implemented last year, why doesn't that metric mean anything to DOLI?

Also, we are still referencing PCR tests as the accepted measurement for infection. However, just detecting virus using this test doesn't equate to an infection, hospitalization, or death. It just means the virus was detected. The CDC spells this out here:

This means just because someone submits to a PCR test and that test, run at higher than recommended cycles, finds traces of virus, that person is deemed to be a positive case. That person may never be in need of medical care, may never have a symptom, and may never transmit enough virus to cause illness to anyone else, yet they are recorded as a positive case. That seems like an improper way to measure the presence of a lethal virus in a population. I'd expect that in VA, with a governor who was trained as a medical doctor, we would require a higher level of verification to declare someone as a positive case.

Deaths are also now at incredibly low numbers. Ultimately that is what is trying to be reduced or prevented from a viral spread, that has happened. In the same Northwest region, the 7-day average is 3 deaths/day. That is less than deaths from any number of other daily activities and certainly not worthy of statewide intervention policies.

Also, according to VDH data, 11,436 individuals have deaths attributed to CV-19 out of 681,599 reported cases. That's a death rate of .0168% or 99.9832% survivability when a positive case is identified (notwithstanding the above issues with positive case identification). This assumes accuracy of reporting is 100% as well. Knowing this, we are taking all these mitigation efforts? Does anyone at DOLI do a risk/benefit analysis with respect to this public data? If called as a witness in a legislative session, could a DOLI official explain the return on investment to a business for implementing any strategy at all for anything that has less than a 1% chance of happening??

With respect to placing demands on the employers of VA to mitigate this virus, the data doesn't point to this being the proper protocol. See this chart from VDH data where the vast majority of cases/deaths/hospitalizations are from people near or beyond retirement age (in fact most deaths are from people beyond the average expected life span). So it really makes no sense to put controls or restrictions on businesses whose employees are in low risk age and demographic groups and contribute nothing to any risk of overwhelmed hospitals or severe disease outbreaks or deaths.

Also quite curious is VDH website won't allow me to build a chart just based on death counts alone. It combines cases and hospitalizations. So drilling down on the data becomes quite a chore which seems like something that should be fixed.

The current round of EUA vaccines on the market are just that, experimental. There have been zero long-term tests done to know if there are any impacts 2, 5, 10 years from now on recipients. For this reason alone, employers should not be compelling their teams to do anything with respect to this procedure unless they somehow assume the risk of any adverse events. In VA, according to VAERS, 44,910 adverse events have been reported. 4,373,518 people in VA are fully vaccinated. It has been widely estimated that VAERS reporting only captures anywhere from 1-10% of incidents. Even if not, there's a 1% chance that a recipient of this experimental intervention will have an adverse reaction and less than a 1% chance of mortality from contracting the virus. Based on those odds alone, individuals are far better off accepting the low risk of natural disease especially when long-term impacts of the experimental drug on their life is completely unknown. As an employer, there's no way to ethically compel or entice employees to accept this risk.

There's also no evidence to show someone who has received the experimental intervention helps anyone but themselves. A person who receives this treatment, then has exposure to the virus, is now an asymptomatic carrier, and not masking (per these guidelines), making them far more dangerous in the workplace than before (if we assume masks have any impact at all). If the experimental shot is truly effective, then it shouldn't matter who wears masks and who doesn't because the recipients of the shot are supposedly immune.

To illustrate why these programs really will not work, look at the case of the first cruise to take place in North America since all of this has happened. All crew and passengers were required to be fully vaccinated and have a negative test within 72hrs of departure. Yet, 2 passengers tested positive for CV-19 while on the cruise. This could equate to any business you can imagine, anywhere. Basically, they fully complied and there were still people with the virus. So what good did any of this do? Why were they even testing if the vaccine requirements were supposedly enough? Celebrity Millennium - Two passengers on first fully vaccinated cruise in North America test POSITIVE for Covid (the-sun.com)

Are workers given fully informed consent when they are taking this shot? Do they know the risks as outlined by the FDA?

Does DOLI plan to publish these risks as part of the standard when discussing vaccinated employees versus non-vaccinated employees?

How can people who have had a natural interaction with the virus and survived be discounted as being any different from someone who has received the experimental shot? Humans have developed lifelong or nearly lifelong immunity or resistance to viruses since we have existed. Are we now ignoring millions of years of development as a species because some new virus showed up in 2020? Can DOLI refute this? This article spells it out quite well: Good news: Mild COVID-19 induces lasting antibody protection – Washington University School of Medicine in St. Louis (wustl.edu)

Should people who have recovered from COVID take a vaccine? (trialsitenews.com)

Many more articles and studies like that can be found quite easily.

As of the date of implementation of the ETS (now EPS) in VA, there were approximately 3,200 reported deaths. VA now stands at approximately 11,400 deaths meaning that since implementation of these mitigation strategies and other statewide mandates, deaths have tripled. Also during this time the experimental vaccines were introduced and widely implemented. Can DOLI or anyone at VDH explain this trend sufficiently to make us think that continuing these policies is in any way a net positive for the workers and employers and citizens of VA?

There are treatments available. They have worked and are working worldwide and in the US where brave doctors have risked their careers to save lives while being suppressed by local and state authorities and definitely censored when trying to share best practices with others in their profession on the front lines. Anyone interested can find these credible testimonies on a variety of platforms and should be appalled and the silencing of these experts. Dr Pierre Kory, Dr Brett Weinstein, Dr Richard

Bartlett, Dr Vladimir Zelenko to name a few that should be looked at. Knowing this, the EUA should have never been allowed to move forward, that alone should give pause to officials here in VA not wanting future lawsuits for our state to have to defend using taxpayer dollars. While this is not the role of DOLI, it is something that should be understood and investigated because there will be legal battles coming and this discussion will emerge as part of those cases.
In summary, while safety of the workforce appears to be the underlying motivator by DOLI, data suggests safety has not and will not be improved by any measures implemented and enforced thus far. Data also suggests that the most vulnerable population to this particular virus is largely not in the workforce. Asking employers to now get into the business of openly discriminating against people who choose or choose not to have an experimental drug injected into their body is really a frightening prospect after a year in which we've been asked to enforce state rules on our own with no training or guidance, become nurses and doctors in assessing an employee's health, taking temperatures or daily medical surveys and also trying to remain open in the face of an economic downturn caused largely by government intervention.
DOLI has not had proper public testimony from expert witnesses on any of the topics spelled out in the standard. Myriad states in the USA have done little to no intervention and had similar or better outcomes with no negative impact on their economies or business freedoms, and those states have recovered faster and are seeing an influx of residents and businesses. Yet DOLI and VA ignore all of this and just keep making policy.
There are things that are not known. We really do not know if face coverings do any good or not. We really do not know if social distancing does any good or not. We really do not know if constant sanitizing does any good or not. We really do not know if asymptomatic spread is real or not. We really do not know if assuming everyone has a virus is a good idea or not. We really do not know if natural immunity is as effective as that obtained by the various experimental drugs available. We really do not know if there are long term effects of these drugs. We really do not know if there have been outbreaks prevented by the measures set out in this standard since last fall. We really do not know far too many things to implement any policy ethically, or morally here in the commonwealth. Given the above, I am opposed to the continuation of this standard or any regulation not supported by validated data and public, expert testimony and on the record votes by elected officials.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99363 Chris Cook 7/9/2021
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99363
Opposition to Continuation of the Emergency Continuation of the Emergency standard, with or without, the proposed changes, will create a burden on most employers and employees, as well ruin the credibility of the Virginia Department of Labor and Industry.
1) On May 28th, Governor Northam, said the following at a press conference: "Today, we mark a tremendous milestone in our fight against COVID-19. As of 12:01 this morning, for the first time since March 2020, there are no limits on capacity or distancing in Virginia's restaurants, business, offices, or other venues." (Virginian-Pilot/Pilotonline, May 28th 2021 10:27 AM; similarly reported by all major media.)
At that moment, in the mind of the citizens of Virginia, the Governor ostensibly, invalidated the Emergency Permanent Standard by proclamation in virtually all settings.

2) Since then, employees, both vaccinated and unvaccinated, have been going to public events, going out to dinner, shopping, attending church, etc without becoming ill from COVID. As no requirement for proof of vaccination is required for the mask rules, it is impossible to say whether they are following that CDC guidance at all times.
With the exception of healthcare professions, where actively ill patients may be injured, or hospitalized, any reasonable person could presume that continuing the proposed restrictions, specifically on a subset of employees, who have chosen to not be vaccinated, nor required to provide proof one way or the other in their daily lives, will view attempted enforcement of these regulations on them in the workplace as a form of intimidation and harassment.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
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SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99371 Anonymous* 7/13/2021
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99371
COVID19 Permanent Standard Proposed Updates.
Dear Members of the Safety and Health Codes Board:
I write to you today in regard to the proposed changes to the COVID-19 permanent workplace standard. The termination of Governor Northam's state of emergency has created confusion in the business community due to the many conflicting sources of ongoing health regulations. While many may look at the expiration of our state of emergency as welcome news that the pandemic is coming to an end, business owners still operate under regulations that are now outdated due to vaccinations and evolving federal guidelines. With capacity limits and mask mandates eliminated but a strict COVID-19 standard still in place, many Virginia business owners don't know which regulatory framework they should follow. To eliminate such confusion (and burden) on businesses and their employees as they seek to recover, it makes the most sense to rescind the standard as has been done with Virginia's state of emergency.
If—and only if—it is the will of the Safety and Health Codes Board to keep a standard in place, it should mirror Center for Disease Control (CDC) guidelines so business owners need not worry about conflicting information from our state and federal governments. The CDC has long asked us to follow the science and a less burdensome approach to COVID-19 mitigation will allow for a speedier recovery while still keeping employees safe.
Our businesses are committed to the safety and welfare of our customers, employees, and community. Please help ensure a speedy economic recovery by eliminating burdensome regulations on our businesses.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

Many comments appear to be under a misunderstanding about the ability of the VOSH Standard to respond to changes in CDC guidance. While it is true that the text of the VOSH Standard remains as it was when first adopted effective January 27, 2021, please note that 16VAC25-220-10.E provides:
E. To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID19 disease

related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer's actions shall be considered in compliance with this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by a provision of this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard. The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.
Contrary to many commenters stating that the VOSH Standard is inflexible and unable to account for the changing dynamic of the virus and the revised CDC recommendations that have issued, 16VAC25-220-10.E specifically does allow the Department's VOSH Standard to account for revised CDC recommendations which are issued in response to the changing dynamic of the virus.

As an example, in §40, FAQ 55 regarding CDC guidance changes for fully vaccinated persons, the Department consulted with the Virginia Department of Health (VDH) and concluded the following within a matter of days of the issuance of the updated CDC guidance on fully vaccinated people:
As the CDC comes out with revised guidelines for fully vaccinated employees in a public workplace setting, the Department reviews the changes with the Virginia Department of Health (VDH) and addresses any changes in compliance requirements in an FAQ.

The Department and VDH agree that based on the CDC's science-based determination that, with the exceptions previously noted, these FAQs, including §40, FAQs 46 to 57, fully vaccinated non-healthcare employees can safely resume indoor and outdoor workplace duties without wearing a face covering or physically distancing in public indoor settings if the place of employment is in an area of moderate or low COVID-19 transmission. Such activities would be in compliance with and provide employees equivalent protection to 16VAC25-220-40.F, -40.G, -40.H, -60.C.10, and -60.C.11. Face coverings must continue to be worn in public indoor settings if the place of employment is in an area of substantial or high COVID-19 transmission.

Unlike the states of California and Oregon, for instance, who issued Emergency Temporary Standards (that did not contain language similar to 16VAC25-220-10.E) and later had to convene their regulatory rulemakers to reissue updated regulatory text to reflect CDC changes, Virginia did not have to do so because it could address them within days of CDC changes through interpretative responses to questions asked by the regulated community and employee representatives.
In closing, 16VAC25-220-10.E, has turned out to be a very effective method for the Virginia to deal with "the changing dynamic of the virus and the revised CDC recommendations that have issued"
The Department has issued FAQs addressing the CDC's updates concerning persons who are fully vaccinated (see §10, FAQs 19-22, and §40, FAQs 46-54).
The FAQs can be found at: https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

DOLI updated its Frequently Asked Questions (FAQ) for the VOSH Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220, in response to the CDC's updated guidance issued on July 27, 2021. The CDC update resulted in changes to face mask ("face covering" in the VOSH Standard) recommendations for fully vaccinated people in public indoor settings in areas with high and substantial COVID-19 transmission rates:
https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

VDH is updating its transmission metrics which can be found at:
https://www.vdh.virginia.gov/coronavirus/key-measures/pandemic-metrics/

See §40, FAQs 54 and 55, which were directly impacted by the updated CDC guidance.
The FAQs were the result of a review by DOLI and VDH in accordance with 16VAC25-220-10.E, which provides in part:

The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.
Following is a summary of CDC's Morbidity and Mortality Weekly Report (MMWR) of July 30, 2021 titled Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021, which resulted in the CDC update:

Summary of MMWR: "During July 2021, 469 cases of COVID-19 associated with multiple summer events and large public gatherings in a town in Barnstable County, Massachusetts, were identified among Massachusetts residents; vaccination coverage among eligible Massachusetts residents was 69%. Approximately three quarters (346; 74%) of cases occurred in fully vaccinated persons…. Overall, 274 (79%) vaccinated patients with breakthrough infection were symptomatic. Among five COVID-19 patients who were hospitalized, four were fully vaccinated; no deaths were reported….[Certain data] might mean that the viral load of vaccinated and unvaccinated persons infected with SARS-CoV-2 is also similar. However, microbiological studies are required to confirm these findings."
https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm

99372 Kathleen Washburn, NVUS, LLC* 7/13/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99372
COVID-19 permanent workplace standard Dear Members of the Safety and Health Codes Board:
I write to you today in regard to the proposed changes to the COVID-19 permanent workplace standard. The termination of Governor Northam's state of emergency has created confusion in the business community due to the many conflicting sources of ongoing health regulations. While many may look at the expiration of our state of emergency as welcome news that the pandemic is coming to an end, business owners still operate under regulations that are now outdated due to vaccinations and evolving federal guidelines. With capacity limits and mask mandates eliminated but a strict COVID-19 standard still in place, many Virginia business owners don't know which regulatory framework they should follow. To eliminate such confusion (and burden) on businesses and their employees as they seek to recover, it makes the most sense to rescind the standard as has been done with Virginia's state of emergency.
If—and only if—it is the will of the Safety and Health Codes Board to keep a standard in place, it should mirror Center for Disease Control (CDC) guidelines so business owners need not worry about conflicting information from our state and federal governments. The CDC has long asked us to follow the science and a less burdensome approach to COVID-19 mitigation will allow for a speedier recovery while still keeping employees safe.
Our businesses are committed to the safety and welfare of our customers, employees, and community. Please help ensure a speedy economic recovery by eliminating burdensome regulations on our businesses.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99373 Vicki Arven 7/13/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99373
Permanent Workplace Standard Removal Dear Members of the Safety and Health Codes Board:
I write to you today in regard to the proposed changes to the COVID-19 permanent workplace standard. The termination of Governor Northam's state of emergency has created confusion in the business community due to the many conflicting sources of ongoing health regulations. While many may look at the expiration of our state of emergency as welcome news that the pandemic is coming to an end, business owners still operate under regulations that are now outdated due to vaccinations and evolving federal guidelines. With capacity limits and mask mandates eliminated but a strict COVID-19 standard still in place, many Virginia business owners don't know which regulatory framework they should follow. To eliminate such confusion (and burden) on businesses and their employees as they seek to recover, it makes the most sense to rescind the standard as has been done with Virginia's state of emergency.
If—and only if—it is the will of the Safety and Health Codes Board to keep a standard in place, it should mirror Center for Disease Control (CDC) guidelines so business owners need not worry about conflicting information from our state and federal governments. The CDC has long asked us to follow the science and a less burdensome approach to COVID-19 mitigation will allow for a speedier recovery while still keeping employees safe.
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SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99374 Jay Gilliland 7/13/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99374
Proposed changes to the COVID-19 permanent workplace standards
Dear Members of the Safety and Health Codes Board:
I write to you today in regard to the proposed changes to the COVID-19 permanent workplace standard. The termination of Governor Northam's state of emergency has created confusion in the business community due to the many conflicting sources of ongoing health regulations. While many may look at the expiration of our state of emergency as welcome news that the pandemic is coming to an end, business owners still operate under regulations that are now outdated due to vaccinations and evolving federal guidelines. With capacity limits and mask mandates eliminated but a strict COVID-19 standard still in place, many Virginia business owners don't know which regulatory framework they should follow. To eliminate such confusion (and burden) on businesses and their employees as they seek to recover, it makes the most sense to rescind the standard as has been done with Virginia's state of emergency.
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SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99375 Matthew Rosenbaum, MBA 7/13/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99375
Workplace Standard Good Afternoon,
I would like to echo comments of previous members of the public in saying that the emergency standard needs to be eliminated and federal guidelines should be followed. Federal guidelines are staying up to date with new and current scientific guidance, while the standard is several months behind.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99377 Anonymous 7/13/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99377
Support for Amendment Having a temporary and then permanent standard in our state has helped, in my opinion, develop more awareness about Covid-19 and means for protection, in addition to keeping the exposure and infection rate low among our employees.

As someone who is responsible for implementing the requirements of these standards, develop the Plan and conduct training, there were times when it was overwhelming to do it in addition to my regular job duties. However, looking back, I can see the benefits of having a compliance framework to assist employers and their employees navigate the pandemic and post-pandemic era. This framework, combined with the commitment of our leaders, had helped us stay safe and working, despite the polarized beliefs and views held by some employees at times.

Having to comply with these standards in VA had created for employers a different, more effective response to the pandemic in comparison with other states (based on conversations I had with professionals in other states (MD, GA, NY).

Moving forward, the Amendment would help, in my opinion, employers close the gap between their employees who are vaccinated and those who are not.

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99484

The VOSH program has clear statutory and regulatory jurisdiction over workplace safety and health issues in the Commonwealth, including the potential for spread of infectious diseases among employees and employers, and when those employees and employers are potentially exposed to other persons who may be carriers of the infectious diseases (patients, customers, independent contractors, etc.). There is substantial scientific evidence and infection, hospitalization and death statistics that support the conclusion that SARS-CoV-2 presents a danger to employees in the workplace.

It is the Department's position that the danger posed to employees and employers by the SARS-CoV-2 virus and COVID-19 disease are necessary and appropriate to regulate. The number of COVID-19 daily infections in Virginia and the United States continue to support the conclusion of ongoing widespread community transmission of the virus, particularly the Delta variant, and the continuing possibility of the introduction of SARS-CoV-2 into Virginia's workplaces for many months to come. While highly effective vaccines against the disease are widely available at no cost, there is still a considerable percentage of the population nationally and in Virginia that is not fully vaccinated.

It is the Department's position that the VOSH Standard remains an important enforcement tool to reduce or eliminate the spread of the virus in the workplace and assures that similarly situated employees and employers exposed to the same or even more serious hazards or job task should all be provided the same basic level of safety and health protections.

The Department also believes that the VOSH Standard ultimately helps businesses to grow and bring customers back when those customers see that employers are providing employees with appropriate protections required by the Standard from SARS-CoV-2. If customers don't feel safe because employees don't feel safe, it will be hard for a business to prosper in a situation where there is ongoing community spread.
While the Virginia Department of Health (VDH) has some statutory and regulatory responsibilities in certain industries (restaurant permitting, temporary labor camp permitting, nursing home licensing, etc.), its primary focus is public safety, customer safety and patient safety. VDH has very limited and in some cases no enforcement options when it comes to requiring many of Virginia's industries to limit the spread of SARS-CoV-2 among employees and employers in the workplace.

The Department notes that the VOSH Standard provides flexibility to businesses through 16VAC25-220-10.E which provides that "To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID-19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer's actions shall be considered in compliance with this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-COV-2 and COVID19 related hazards or job tasks addressed by this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard.

Some commenters raised concerns about the standard being "permanent". The use of the word "permanent" in reference to the Standard reflects the fact that, if adopted, the Standard does not currently have a date on which it would expire. However, the Board has the authority to amend or repeal the Standard as the workplace hazards associated with the SARS-CoV-2 virus and COVID-19 disease evolve and eventually lessen. Va. Code § 40.1-22.

DOLI updated its Frequently Asked Questions (FAQ) for the VOSH Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220, in response to the CDC's updated guidance issued on July 27, 2021. The CDC update resulted in changes to face mask ("face covering" in the VOSH Standard) recommendations for fully vaccinated people in public indoor settings in areas with high and substantial COVID-19 transmission rates:

https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

VDH is updating its transmission metrics which can be found at:

https://www.vdh.virginia.gov/coronavirus/key-measures/pandemic-metrics/

See §40, FAQs 54 and 55, which were directly impacted by the updated CDC guidance.
The FAQs were the result of a review by DOLI and VDH in accordance with 16VAC25-220-10.E, which provides in part:

The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.
Following is a summary of CDC's Morbidity and Mortality Weekly Report (MMWR) of July 30, 2021 titled Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021, which resulted in the CDC update:

Summary of MMWR: "During July 2021, 469 cases of COVID-19 associated with multiple summer events and large public gatherings in a town in Barnstable County, Massachusetts, were identified among Massachusetts residents; vaccination coverage among eligible Massachusetts residents was 69%. Approximately three quarters (346; 74%) of cases occurred in fully vaccinated persons…. Overall, 274 (79%) vaccinated patients with breakthrough infection were symptomatic. Among five COVID-19 patients who were hospitalized, four were fully vaccinated; no deaths were reported….[Certain data] might mean that the viral load of vaccinated and unvaccinated persons infected with SARS-CoV-2 is also similar. However, microbiological studies are required to confirm these findings."
https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm

99378 Anonymous 7/13/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99378
Covid restrictions I think all the covid restrictions should be removed and we should have the same work conditions we had prior to covid.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99379 Sofia Melnyk 7/13/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99379
Covid restrictions I live in Roanoke, VA. Covid restrictions put a lot of pressure on local businesses. I would like to have Covid restrictions removed so businesses can operate like they used to during pre pandemic time.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99381 Amy Wolford, DePaul Community Resources DePaul Community Resources 7/14/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99381
Comment regarding the proposed changes to the Final Permanent Standard for COVID-19
RE: Proposed Amendments to the Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19, 16VAC25-220, as Adopted by the Virginia Safety and Health Codes Board dated June 29, 2021
Dear Ms. Trice:

Thank you for the opportunity to provide a public comment. As safety is a top priority for our nonprofit human services organization, we would like to raise the following to items to your attention.

While the proposed Final Permanent Standard addresses workplace issues within an office setting, we are requesting specific guidance regarding employees who will have in-person contact with people who are unable to receive the vaccine or who are at a higher risk of severe COVID-19 even with a vaccine in a community setting, such as a home. Our work at DePaul requires our employees to be in foster homes with children who are unable to be vaccinated at this time due to their age, as well as in the homes of individuals with developmental disabilities. There is a need to provide appropriate precautions to protect our staff, the clients we serve (foster children and individuals with disabilities), and the people that care for them (foster parents and sponsored residential providers) in these community-based settings.

Additionally, we are requesting clarity regarding an employer's ability to mandate precautions that are stricter than the Final Permanent Standard. The Final Permanent Standard appears to indicate that employers are prevented from maintaining stricter precautions. While FAQ #49 in §40 from the current Final Permanent Standard indicates that ability, it is unclear if this revision of the Final Permanent Standard takes that allowance away from employers.

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

See updated DOLI FAQs §40, FAQs 46-57 dealing with requirements for fully vaccinated employees and those who are not fully vaccinated.
https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

Employers can require safety and health protections for employees that exceed VOSH standards:
See §40, FAQ 50: https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

50. IF AN EMPLOYER DETERMINES THAT FULLY VACCINATED EMPLOYEES MUST STILL WEAR FACE COVERINGS AND/OR PHYSICAL DISTANCE WHILE AT WORK, MUST EMPLOYEES COMPLY?
Yes. Va. Code §40.1-51.2(a), rights and duties of employees provides as follows:

(a) It shall be the duty of each employee to comply with all occupational safety and health rules and regulations issued pursuant to this chapter and any orders issued thereunder which are applicable to his own action and conduct.

Employers have the duty to "to furnish to each of his employees safe employment and a place of employment that is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees," Va. Code §40.1-51.1.A; and the right to establish workplace safety and health rules and to enforce them, 16VAC25-60-260.B.

NOTE 1: For the purposes of this guidance, people are considered fully vaccinated for COVID-19 ≥2 weeks after they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna), or ≥2

weeks after they have received a single-dose vaccine (Johnson & Johnson [J&J]/Janssen)±; there is currently no post-vaccination time limit on fully vaccinated status. This guidance can also be applied to COVID-19 vaccines that have been authorized for emergency use by the World Health Organization (e.g. AstraZeneca/Oxford). Unvaccinated people refers to individuals of all ages, including children, that have not completed a vaccination series or received a single-dose vaccine.

However, at this time, there are limited data on vaccine protection in people who are immunocompromised. People with immunocompromising conditions, including those taking immunosuppressive medications (for instance drugs, such as mycophenolate and rituximab, to suppress rejection of transplanted organs or to treat rheumatologic conditions), should discuss the need for personal protective measures with their healthcare provider after vaccination.
Reference: https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

The Department of Labor and Industry (DOLI) has consulted with the Virginia Department of Health (VDH) about whether REVISIONS should be recommended to the Board's Proposed Amendments to the VOSH Standard originally adopted on June 29, 2021, in response to the CDC's updated guidance for fully vaccinated people issued on July 27, 2021 (requirement in certain situations for fully vaccinated employees to wear face coverings in areas of substantial or high transmission).
https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

DOLI and VDH are in agreement that some REVISIONS should be recommended to the Board along with the Governor's amendment to 16VAC25-220-10.E.(https://www.doli.virginia.gov/wpcontent/uploads/2021/07/Summary-of-Governor-Northams-Review-of-Proposed-Amendmentsto-16VAC25-220-7.1.2021.pdf).

The Dept. invites the public to comment on the Revised Proposed Amendments to the VOSH Standard by using the Townhall Comment Forum here. The forum will be open for 7 days from August 16, 2021 to August 23, 2021. https://townhall.virginia.gov/L/ViewNotice.cfm?GNid=1309

99382 Visit Virginia's Blue Ridge
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99382
COVID 19 Guidelines It would be best for the Commonwealth of Virginia to align all workforce COVID19 standards with the CDC guidelines. This will reduce any confusion.

SEE RESPONSE TO COMMENT 99371

99383 TBS Construction, LLC*
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99383
Changes to the COVID-19 Permanent Workplace Standard
Dear Members of the Safety and Health Codes Board:
I write to you today in regard to the proposed changes to the COVID-19 permanent workplace standard. The termination of Governor Northam's state of emergency has created confusion in the business community due to the many conflicting sources of ongoing health regulations. While many may look at the expiration of our state of emergency as welcome news that the pandemic is coming to an end, business owners still operate under regulations that are now outdated due to vaccinations and evolving federal guidelines. With capacity limits and mask mandates eliminated but a strict COVID-19 standard still in place, many Virginia business owners don't know which regulatory framework they should follow. To eliminate such confusion (and burden) on businesses and their employees as they seek to recover, it makes the most sense to rescind the standard as has been done with Virginia's state of emergency.

If—and only if—it is the will of the Safety and Health Codes Board to keep a standard in place, it should mirror Center for Disease Control (CDC) guidelines so business owners need not worry about conflicting information from our state and federal governments. The CDC has long asked us to follow the science and a less burdensome approach to COVID-19 mitigation will allow for a speedier recovery while still keeping employees safe.
Our businesses are committed to the safety and welfare of our customers, employees, and community. Please help ensure a speedy economic recovery by eliminating burdensome regulations on our businesses.

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SEE RESPONSE TO COMMENT 99671

99384 Brooke Mills
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99384
Virginia COVID Standard
Dear Members of the Safety and Health Codes Board:

I am writing to ask that you rescind the COVID-19 permanent workplace standard. The guidance is outdated and does not reflect recent developments, specifically regarding vaccinations. The Occupational Safety and Health Administration (OSHA) and Centers for Disease Control (CDC) have provided sufficient guidance for employers that is frequently updated to reflect changes in science, best practices and standards.

As a Human Resources professional, I consider helping to provide a safe workplace for our employees one of my most important responsibilities. For many years, I have relied on guidance from OSHA to assist with various elements of a workplace safety. I trust that their recommendations on mitigating and preventing the spread of COVID-19 in our workplaces will be of the same caliber and high standard we are accustomed to. In addition, the CDC will continue to be our Company's "go-to" source of information for all pandemic related planning and response activities.

Rather than continuing with unnecessary and burdensome regulations, I urge you to rely on the expertise of the CDC and OSHA to guide Virginia's COVID-19 response.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99385 Anonymous
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99385
Your workplace "protections" are screwing retail workers
Drop mandatory daily health screening/surveys. Since implementation, these have forced otherwise honest employees to lie repeatedly about mundane, routine, non-COVID health conditions, or else take excessively long periods of unpaid time off of work due to the requirements in this policy. Nobody I know answers these surveys honestly unless they want 10 days off from work unpaid. This is an unnecessary reporting burden for the employee and employer, and is costing many front-line retail workers large amounts of lost wages.

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

§40, FAQ 56 provides:
56. With the CDC updated guidance on fully vaccinated employees issued on May 13, 2021, are employers still required to conduct daily health assessments/screenings?

Yes, but only for employees that are exposed to COVID-19 related hazards and job tasks that are classified as very high, high or medium exposure risk. See 16VAC25-220-50.C.1 (very high and high exposure risk) and 16VAC25-220-60.C.1 (medium exposure risk).
The VOSH Standard does not require daily health assessments or daily screenings of employees only exposed to COVID-19 related hazards and job tasks classified as lower exposure risk. Instead, 16VAC25-220-40.B.4 provides:

4. Employers shall develop and implement policies and procedures for employees to report when they are experiencing signs or symptoms consistent with COVID-19, and no alternative diagnosis has been made (e.g., tested positive for influenza). Such employees shall be designated by the employer as "suspected to be infected with SARS-CoV-2 virus."

See CDC guidance for fully vaccinated people that are experiencing COVID-19 signs or symptoms; and for fully vaccinated people that have tested positive for COVID-19 in the prior 10 days at: https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html#:~:text=Guiding%20Principles%20for%20Fully%20Vaccinated%20People,-Indoor%20and%20outdoor&text=Fully%20vaccinated%20people%20should%20still,are%20experiencing%20COVID%2D19%20symptoms.

https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

99386 John Avis
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99386
Rescind COVID-19 Standard
Dear Members of the Safety and Health Codes Board:
I am writing to ask that you rescind the COVID-19 permanent workplace standard. The guidance is outdated and does not reflect recent developments, specifically regarding vaccinations. The Occupational Safety and Health Administration (OSHA) and Centers for Disease Control (CDC) have provided sufficient guidance for employers that is frequently updated to reflect changes in science, best practices and standards.
As a Human Resources professional, I consider helping to provide a safe workplace for our employees one of my most important responsibilities. For many years, I have relied on guidance from OSHA to assist with various elements of a workplace safety. I trust that their recommendations on mitigating and preventing the spread of COVID-19 in our workplaces will be of the same caliber and high standard we are accustomed to. In addition, the CDC will continue to be our Company's "go-to" source of information for all pandemic related planning and response activities.
Rather than continuing with unnecessary and burdensome regulations, I urge you to rely on the expertise of the CDC and OSHA to guide Virginia's COVID-19 response.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371

SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99388 Danita Roble 7/15/2021
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99388

Do Not make temporary regulations regarding COVID-19 permanent

If the mission of any mitigation strategies for Covid-19 is still to limit the overwhelming of hospitals, that has been completely accomplished based on the VDH data in the graph above. The darkest blue is current hospitalizations for CV-19 and the dotted yellow is surge capacity (not overwhelmed capacity). As can be seen, we have never been anywhere near capacity nor in danger of overwhelming the hospital beds. Shown is Northwest region, but all graphs show the same overall trends. If the mission of any mitigation strategy is something other than preventing hospitals from becoming overwhelmed, then that should be explained by the DOLI board at the outset.

The % positivity rates are also as low as they've ever been, even before any executive orders were implemented last year, why doesn't that metric mean anything to DOLI?

Also, we are still referencing PCR tests as the accepted measurement for infection. However, just detecting virus using this test doesn't equate to an infection, hospitalization, or death. It just means the virus was detected. The CDC spells this out here:

This means just because someone submits to a PCR test and that test, run at higher than recommended cycles, finds traces of virus, that person is deemed to be a positive case. That person may never be in need of medical care, may never have a symptom, and may never transmit enough virus to cause illness to anyone else, yet they are recorded as a positive case. That seems like an improper way to measure the presence of a lethal virus in a population. I'd expect that in VA, with a governor who was trained as a medical doctor, we would require a higher level of verification to declare someone as a positive case.

Deaths are also now at incredibly low numbers. Ultimately that is what is trying to be reduced or prevented from a viral spread, that has happened. In the same Northwest region, the 7-day average is 3 deaths/day. That is less than deaths from any number of other daily activities and certainly not worthy of statewide intervention policies.

Also, according to VDH data, 11,436 individuals have deaths attributed to CV-19 out of 681,599 reported cases. That's a death rate of .0168% or 99.9832% survivability when a positive case is identified (notwithstanding the above issues with positive case identification). This assumes accuracy of reporting is 100% as well. Knowing this, we are taking all these mitigation efforts? Does anyone at DOLI do a risk/benefit analysis with respect to this public data? If called as a witness in a legislative session, could a DOLI official explain the return on investment to a business for implementing any strategy at all for anything that has less than a 1% chance of happening??

With respect to placing demands on the employers of VA to mitigate this virus, the data doesn't point to this being the proper protocol. See this chart from VDH data where the vast majority of cases/deaths/hospitalizations are from people near or beyond retirement age (in fact most deaths are from people beyond the average expected life span). So it really makes no sense to put controls or restrictions on businesses whose employees are in low risk age and demographic groups and contribute nothing to any risk of overwhelmed hospitals or severe disease outbreaks or deaths.

Also quite curious is VDH website won't allow me to build a chart just based on death counts alone. It combines cases and hospitalizations. So drilling down on the data becomes quite a chore which seems like something that should be fixed.

The current round of EUA vaccines on the market are just that, experimental. There have been zero long-term tests done to know if there are any impacts 2, 5, 10 years from now on recipients. For this

reason alone, employers should not be compelling their teams to do anything with respect to this procedure unless they somehow assume the risk of any adverse events. In VA, according to VAERS, 44,910 adverse events have been reported. 4,373,518 people in VA are fully vaccinated. It has been widely estimated that VAERS reporting only captures anywhere from 1-10% of incidents. Even if not, there's a 1% chance that a recipient of this experimental intervention will have an adverse reaction and less than a 1% chance of mortality from contracting the virus. Based on those odds alone, individuals are far better off accepting the low risk of natural disease especially when long-term impacts of the experimental drug on their life is completely unknown. As an employer, there's no way to ethically compel or entice employees to accept this risk.

There's also no evidence to show someone who has received the experimental intervention helps anyone but themselves. A person who receives this treatment, then has exposure to the virus, is now an asymptomatic carrier, and not masking (per these guidelines), making them far more dangerous in the workplace than before (if we assume masks have any impact at all). If the experimental shot is truly effective, then it shouldn't matter who wears masks and who doesn't because the recipients of the shot are supposedly immune.

To illustrate why these programs really will not work, look at the case of the first cruise to take place in North America since all of this has happened. All crew and passengers were required to be fully vaccinated and have a negative test within 72hrs of departure. Yet, 2 passengers tested positive for CV-19 while on the cruise. This could equate to any business you can imagine, anywhere. Basically, they fully complied and there were still people with the virus. So what good did any of this do? Why were they even testing if the vaccine requirements were supposedly enough? Celebrity Millennium - Two passengers on first fully vaccinated cruise in North America test POSITIVE for Covid (the-sun.com)

Are workers given fully informed consent when they are taking this shot? Do they know the risks as outlined by the FDA?

Does DOLI plan to publish these risks as part of the standard when discussing vaccinated employees versus non-vaccinated employees?

How can people who have had a natural interaction with the virus and survived be discounted as being any different from someone who has received the experimental shot? Humans have developed lifelong or nearly lifelong immunity or resistance to viruses since we have existed. Are we now ignoring millions of years of development as a species because some new virus showed up in 2020? Can DOLI refute this? This article spells it out quite well: Good news: Mild COVID-19 induces lasting antibody protection – Washington University School of Medicine in St. Louis (wustl.edu)

Should people who have recovered from COVID take a vaccine? (trialsitenews.com)

Many more articles and studies like that can be found quite easily.

As of the date of implementation of the ETS (now EPS) in VA, there were approximately 3,200 reported deaths. VA now stands at approximately 11,400 deaths meaning that since implementation of these mitigation strategies and other statewide mandates, deaths have tripled. Also during this time the experimental vaccines were introduced and widely implemented. Can DOLI or anyone at VDH explain this trend sufficiently to make us think that continuing these policies is in any way a net positive for the workers and employers and citizens of VA?

There are treatments available. They have worked and are working worldwide and in the US where brave doctors have risked their careers to save lives while being suppressed by local and state authorities and definitely censored when trying to share best practices with others in their profession on the front lines. Anyone interested can find these credible testimonies on a variety of platforms and should be appalled and the silencing of these experts. Dr Pierre Kory, Dr Brett Weinstein, Dr Richard Bartlett, Dr Vladimir Zelenko to name a few that should be looked at. Knowing this, the EUA should have never been allowed to move forward, that alone should give pause to officials here in VA not wanting future lawsuits for our state to have to defend using taxpayer dollars. While this is not the role of DOLI, it is something that should be understood and investigated because there will be legal battles coming and this discussion will emerge as part of those cases.

In summary, while safety of the workforce appears to be the underlying motivator by DOLI, data suggests safety has not and will not be improved by any measures implemented and enforced thus far. Data also suggests that the most vulnerable population to this particular virus is largely not in the workforce. Asking employers to now get into the business of openly discriminating against people who choose or choose not to have an experimental drug injected into their body is really a frightening prospect after a year in which we've been asked to enforce state rules on our own with no training or guidance, become nurses and doctors in assessing an employee's health, taking temperatures or daily medical surveys and also trying to remain open in the face of an economic downturn caused largely by government intervention.

DOLI has not had proper public testimony from expert witnesses on any of the topics spelled out in the standard. Myriad states in the USA have done little to no intervention and had similar or better outcomes with no negative impact on their economies or business freedoms, and those states have recovered faster and are seeing an influx of residents and businesses. Yet DOLI and VA ignore all of this and just keep making policy. LINK: VDH

There are things that are not known. We really do not know if face coverings do any good or not. We really do not know if social distancing does any good or not. We really do not know if constant sanitizing does any good or not. We really do not know if asymptomatic spread is real or not. We really do not know if assuming everyone has a virus is a good idea or not. We really do not know if natural immunity is as effective as that obtained by the various experimental drugs available. We really do not know if there are long term effects of these drugs. We really do not know if there have been outbreaks prevented by the measures set out in this standard since last fall. We really do not know far too many things to implement any policy ethically, or morally here in the commonwealth. Given the above, I am opposed to the continuation of this standard or any regulation not supported by validated data and public, expert testimony and on the record votes by elected officials.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99389 Scott Miller 7/16/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99389

COVID-19 Regulations

Dear Members of the Safety and Health Codes Board:

I write to you today in regard to the proposed changes to the COVID-19 permanent workplace standard. The termination of Governor Northam's state of emergency has created confusion in the business community due to the many conflicting sources of ongoing health regulations. While many may look at the expiration of our state of emergency as welcome news that the pandemic is coming to an end, business owners still operate under regulations that are now outdated due to vaccinations and evolving federal guidelines. With capacity limits and mask mandates eliminated but a strict COVID-19 standard still in place, many Virginia business owners don't know which regulatory framework they should follow. To eliminate such confusion (and burden) on businesses and their employees as they seek to recover, it makes the most sense to rescind the standard as has been done with Virginia's state of emergency. If—and only if—it is the will of the Safety and Health Codes Board to keep a standard in place, it should mirror Center for Disease Control (CDC) guidelines so business owners need not worry about conflicting information from our state and federal governments. The CDC has long asked us to follow the science and a less burdensome approach to COVID-19 mitigation will allow for a speedier recovery while still keeping employees safe.

Our businesses are committed to the safety and welfare of our customers, employees, and community. Please help ensure a speedy economic recovery by eliminating burdensome regulations on our businesses.
SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99390 Neil Biller 7/16/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99390
DOLI COVID Regulations"Dear Members of the Safety and Health Codes Board:
I write to you today in regard to the proposed changes to the COVD permanent workplace standards.
We do not feel that permanent regulations are necessary however if any regulations must be promulgated that they be exactly as those enacted by the United States Center for Disease Control (CDC). There are many conflicting regulations and policies concerning COVD therefore we recommend that simplicity and clarity become the standard.
Again, we want to be clear that we do not support any permanent regulations but if they are they must be simple, clear and identical to CDC guidelines.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99396 Diane Peters 7/20/2021
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99396
Oppose Permanent Workplace Safety Standards
The proposed permanent standards being proposed in relation to COVID-19 unfairly affect businesses and their employees. DOLI should issue guidelines similar to the CDC, not permanent standards. Businesses should be allowed to set their own standards as far as k mask wearing and social distancing, but medical requirements proposed in these standards go against HIPPA.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99397 Southern Management 7/20/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99397
Opposing the Permanent Workplace Safety Standards

Opposing the Permanent Workplace Safety Standards.

SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99401 Patrick Burton 7/20/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99401
Permanent Workplace Safety Standards Workplace safety is something we all take seriously in the property management business. We have learned over the past 18 months how to conduct business and protect our team, customers, vendors and residents alike. We have thermometers and O2 Pulse Monitors and used them every day to determine that our team was healthy and not putting others at risk of infection. Permanent standards for workplace safety is not what we need in our industry. Guidelines offered in conjunction with updates from the CDC is a much better option now that we have learned so much about how to operate safely during a pandemic like COVID-19. Please establish guidelines not standards for workplace safety going forward.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99402 Anonymous 7/21/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99402
Permanent Standard Please reconsider making these standards permanent. As a business owner, I put the health and safety of my employees and patrons at the top of the list. But, as others have said, there is not across the board guidance on this. What about the newest research of natural, possible lifetime immunity? No one is making any new guidelines on such, which should be considered as a viable alternative to a vaccine. After all, the original goal was to get herd immunity for the population. Instead we get, put on a mask or you can be turned in by a peer…any government who encourages neighbors to turn on each other should look into the past and what those outcomes were and rethink it…

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99419 Charles Twigg, O.D. 7/22/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99419
PPE Requirements/Covid Education I think that PPE should be mandated in all healthcare settings. We (Healthcare Providers) need to be setting an example for the general public. We need to be a source of reliable information to deliver on a personal basis to all who seek our professional services.
We need to discourage the spread of Covid and its emerging variants both by example and by education of the “non-vaccers”.

We need to be able to provide an up to the minute reliable source (written documentation) of information to encourage the "spread" of accurate information about the risks of Covid-19 and the risks and benefits of immunization.
Our close personal relationship gives us a unique platform to deliver reliable information. We need to use our unique position of trust to "move the needle" of trust in our science towards "fact" in a non-political setting. "

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

See DOLI §40, FAQ 46 on respiratory protection requirements in the workplace.
https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

On June 21, 2021 Federal OSHA issued an emergency temporary standard (ETS) to protect healthcare and healthcare support service workers from occupational exposure to COVID-19 in settings where people with COVID-19 are reasonably expected to be present.

On June 29, 2021, the Safety and Health Codes Board (Board) adopted the federal COVID19 Emergency Temporary Standard, 1910.502, et seq., applicable to all settings where any employee provides healthcare services or healthcare support services, with an effective date of August 2, 2021 and which shall expire within six months or when repealed by the Board, whichever occurs first.

The effective date of the ETS as adopted by the Board is August 2, 2021. Virginia employers must comply with all the requirements of the COVID-19 ETS except paragraphs §1910.502 (i), (k) and (n) by August 17, 2021. Employers must comply with paragraphs § 1910.502(i), (k), and (n) by September 1, 2021.
In its motion to adopt the Emergency Temporary Standard, the Safety and Health Codes Board also accepted the recommendation of the Department that:

1. Application of Virginia's 16VAC-25-220, except for 16VAC-25-220-40 B.7.d and e, and 16VAC25-220-90, to such covered employers and employees subject to the standard shall be suspended while the federal COVID-19 Emergency Temporary Standard remains in effect.
2. Should the federal COVID-19 Emergency Temporary Standard, 1910.502, et seq., applicable to settings where any employee provides healthcare services or healthcare support services be later stayed or invalidated by a state or federal court, the provisions of Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, including 16VAC25-220-50, shall immediately apply to such employers and employees in its place with no further action of the Board required.
3. Should the federal COVID-19 Emergency Temporary Standard, 1910.502, et seq., applicable to all settings where any employee provides healthcare services or healthcare support services be later stayed by federal OSHA, or otherwise revoked, repealed, declared unenforceable, or permitted to expire, the provisions of Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, including 16VAC25-220-50, shall immediately apply to such employers and employees in its place with no further action of the Board required. In addition, the Virginia Safety and Health Codes Board shall within 30 days notice a regular, special, or emergency meeting/conduct a regular, special, or emergency meeting to determine whether there is a continued need for Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, or whether it should be maintained, modified, or revoked.

To access the final rule see Occupational Exposure to COVID–19; Emergency Temporary Standard, Interim Final Rule. https://www.govinfo.gov/content/pkg/FR-2021-06-21/pdf/2021-12428.pdf

For Federal OSHA Outreach Materials, see COVID-19 Healthcare ETS Outreach. https://www.osha.gov/coronavirus/ets

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99465 Anonymous 7/23/2021
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99465
unnecessary ETSq END THE ETS! for almost two years you have preached "follow the science", well it's time you took your own advice! These are not helpful, unnecessary and a violent overreach by the government! End the ETS!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
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SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99466 Joe Kouten
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99466ETS
Regs ETS is placing a burden on doing business and now that the Governor has lifted the emergency, this should also be lifted. Don;t drive small business' out of business!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99467 Bill Ragland 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99467
Really Really. More over reach from the government. Are you trying to make it harder to do business in Va. Stop over regulating

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99468 Jeff Foley 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99468
ETS is not good for small business! We are trying to recover financially from the pandemic and the ETS is a bad idea! We are vaccinated and the ETS is no longer necessary.

SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99469 Chuck Shifflett 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99469
Strongly oppose ETS Reg as Permanent As a company we have been and will continue to make sure the safety and well being of our employees and our customers is of the highest concern. People are more aware that their actions and or in-actions as it pertains to social distance, cleanliness, etc affects others and they have mostly now set their own standards higher. The burden the ETS puts on small businesses is higher than anyone ever probably thought it would be. It makes it harder to staff, service consumers, handle deliveries both in and out of the company, as well at the same time minimizing the profits of the company due to the costs involved all the way around. The ETS needs to be ended.

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SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99470 Alice Coleman 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99470oppose
ETS This restriction places an undo burden on small business. Please do not support this. We have already suffered enough. We already comply with CDC guidelines. Please do not place additional restrictions on us. We have been financially impacted enough.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99471 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99471
Oppose ETS!!! "Our Governor has lifted the state of emergency; the ETS should be lifted as well.
We should only be required to follow CDC guidelines.
At this stage of the pandemic, ETS place an unnecessary burden on my small business as I try to recover financially from the COVID-19 pandemic. I am already complying with CDC guidelines, and additional restrictions and burdens on me will further hinder my financial recovery process.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99472 KK 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99472
Strongly oppose ETS and those who support it. "Permanent ETS standards will NOT be tolerated. Will fight back with those supporting this government overreach.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99473 old dominion tire services inc. Old Dominion Tire Services, Inc 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99473
ets mandate "i have a tire company located in Chesterfield County all of my team have had the vacation for COVID 19 . We don't need to be regulated by the government . i stand in opposition of this regulation.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
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SEE RESPONSE TO COMMENT 99484
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SEE RESPONSE TO COMMENT 99671

99474 George Reynolds 7/23/2021
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99474 Can small businesses please get a break? The title says it all. We're dying over here. Please don't make things even more difficult.

Do not make the ETS permanent. We're following CDC guidelines which should be sufficient.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
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SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99475 Bob 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99475
oppose We already have done everything asked of us, lets follow cdc guidelines, do not make this permanent, it holds businesses down.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671

99476 Dean C Rodgers 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99476
Time to Treat People Like Adults "There is adequate information exposure on the risks of covid.
There are successful treatments available to covid patients.
There is a FREE vaccine available to anyone who wants it.
It is time to allow adults to make decisions for themselvels and their children.
The government no longer has a role to play in this individual health care decision.
Businesses do not need government help in managing their employees in this matter.
End DOLI's involvement in it. Please.

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SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99477 Ryan Hailey 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99477
stop the madness its time to stop worrying about a cloth face covering that is soaking up all the diseases and bringing them home or into your vehicles making you more sick then coving your face all day and making it hard to breathe

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99478 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99478
No to further mandates!!!! "Our Governor has lifted the state of emergency as it expired. The ETS should also be lifted. We should be required to only follow the CDC guidelines. The ETS is no longer necessary as very few people are hospitalized. At this stage of the pandemic, ETS place an unnecessary and a burden on my small business as I try to recover financially from the COVID-19 pandemic. I am already complying with CDC guidelines, and additional restrictions and burdens on me will further hinder my financial recovery process.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99479 Suzette Babcock Childcare Center 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99479
Childcare Center Owner"1) I would like to see ALL agencies get on the SAME PAGE! CDC says vaccinated individuals don't need to wear a mask, but DOLI says we do. Too many agencies giving us contradicting guidance. (CDC, VDH, DSS, DOE, DOLI, and any local regulating entity)
2) No masks for vaccinated individuals.
3) Allow business to make some individual common sense decisions. A 200+ student childcare center in the city is far different than a 40 student rural childcare center

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99480 Judy Miller 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99480
Stop The Mask Wearing NOW! This is Pure stupidity! Do YOU know the best action for Covid? FRESH AIR. and instead you quarantined people. Masks are not needed anymore. If people want them. Ok. But don't force them. THE END.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99481 Childcare Worker 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99481
No masks "Requiring everyone to wear a mask did not stop us from being closed for quarantine for 2 weeks losing pay. Requiring a mask for vaccinated people makes it seems as if vaccination doesn't work. Stop killing businesses.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99482 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99482
Strongly oppose Businesses in Virginia have suffered enough by the way our Governor and other officials have handled this pandemic, not to mention the recent statistics showing our state ranks 41st in returning jobs affected by the pandemic so far this year.
Enough is enough !!!

SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99483 Javier 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99483
There is no more "EMERGENCY"!! "The jab was for emergency use and still NOT FDA APPROVE why is the Government pushing so hard!! I will defend THE CONSTITUTION from foreign and domestic.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99484 Nancy J Thomas 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99484
STRJGLY OPPOSED "There has never been a problem. The media falsely led and fed lies and inflated the numbers which made people scared. Continuing down this path you are sealing your fate and God will have all those involved to answer for this. Thank you for letting me comment.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The Department respectfully disagrees with the commenter's statement that "there has never been a problem."

The CDC reports the following as of August 11, 2021:

Reported Cases
The current 7-day moving average of daily new cases (114,190) increased 18.4% compared with the previous 7-day moving average (96,454). The current 7-day moving average is 66.3% higher compared to the peak observed on July 20, 2020 (68,685). The current 7-day moving average is 65.0% lower than the peak observed on January 10, 2021 (254,023) and is 882.8% higher than the lowest value observed on June 19, 2021 (11,619). A total of 36,268,057 COVID-19 cases have been reported as of August 11.

Deaths
The current 7-day moving average of new deaths (492) has increased 21.0% compared with the previous 7-day moving average (407). The current 7-day moving average is 59.3% lower compared to the peak observed on August 2, 2020 (1,210). The current 7-day moving average is 86.5% lower than the peak observed on January 13, 2021 (3,640) and is 170.4% higher than the lowest value observed on July 10, 2021 (182). As of August 11, a total of 617,096 COVID-19 deaths have been reported in the United States.

Hospitalizations
New Hospital Admissions
The current 7-day average for August 4–August 10 was 10,072. This is a 29.6% increase from the prior 7-day average (7,771) from July 28–August 3. The 7-day moving average for new admissions has consistently increased since June 25, 2021. New admissions of patients with confirmed COVID-19 are currently at their highest levels since the start of the pandemic in Florida, Louisiana, and Oregon.

Vaccinations
The U.S. COVID-19 Vaccination Program began December 14, 2020. As of August 12, 353.9 million vaccine doses have been administered. Overall, about 196.5 million people, or 59.2% of the total U.S. population, have received at least one dose of vaccine. About 167.4 million people, or 50.4% of the total U.S. population, have been fully vaccinated.* As of August 12, the 7-day average number of administered vaccine doses reported (by date of CDC report) to CDC per day was 699,068, a 0.03% decrease from the previous week.

CDC's COVID Data Tracker Vaccination Demographic Trends tab shows vaccination trends by age group. As of August 12, 90.6% of people ages 65 or older have received at least one dose of vaccine and 80.6% are fully vaccinated. Over two-thirds (71.5%) of people ages 18 or older have received at least one dose of vaccine and 61.3% are fully vaccinated. For people ages 12 or older, 69.2% have received at least one dose of vaccine and 59% are fully vaccinated.

99485 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99485
Objection "This is crazy! Please do your research. Please present both sides of this issue to the public, and let the people decide for themselves if they prefer to mask & social distance. Crippling small businesses and mandating mask wearing is offensive and debilitating economically and physically.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99486 Mag. W. 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99486
Strongly against!!! No way! What has happened to individual rights?I

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99487 Dalila Adams 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99487
Stongly oppose "Another way to control others and take away freedim. No trust in CDC, FDA, Biden or government now.

ivermectin and hcq with zinc and antibiotics works. People died unnecessarily from censorship and de ual of these simple methods. Disgusting. also Trump won and you know it
SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99488 David 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99488
You know damn well those masks do nothing. It says right on the box you buy - it does nothing.
It is time for you folks to be removed from office. Your agenda is not the agenda of the American people you are supposed to be representing. You know full well those masks do NOTHING. It says right on the box - does not protect from viruses or covid specifically on some. So why? Do you think we do not know what you are doing? The American people are waking up and becoming aware of your agenda. You best knock it off or your time in office will be short - the people of Virginia have had enough.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99489 Tammie Neff 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99489Mandates "Do not do this! It is all lies and we won't be locked down and smothered under masks any longer! There is no Covid nor a Delta virus!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99490 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99490
Strongly Oppose "This is getting ridiculous. The majority of people getting COVID are those who have been vaccinated! Masks don't work and neither do vaccinations. This virus is 99.4% curable. Why are we STILL allowing it to run our lives and our businesses? It's beyond time to move on.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99491 Deborah Moomaw 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99491
I object! I object to this proposal!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99492 PWC Citizen 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99492
strongly oppose"There are still those who have never contracted the virus, always tested negative for COVID, wore their mask, and followed all guidelines. Those who have never tested positive shouldn't be forced to become vaccinated

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99493 Tanya 7/23/2021
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99493
No More It is becoming more and more clear the “leadership” is far overreaching. Lockdowns, masking, vaccinations are proving they do not work and are far more harmful than helpful. Would you like for all small businesses to close? Families to financially collapse? Children to die of suicide? It is starting to feel that is the intention behind it all because it certainly isn’t backed by any common sense or real science. You are propagating fear and encouraging everyone to base their decisions out of fear. Most of us want to be left alone and do what we feel is best for our families. Stay out or get out. That’s how the vote will be moving forward from this mom of 3.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99494 JIM 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99494
STRONGLY OPPOSED! NO MORE!! "This is Government overreach. It absolutely DOES NOT follow the science. I can assure you, We the people will not stand for anymore!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377

SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99496 Cynthia 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99496
Virginia businesses and the economy have suffered enough
For the sake of businesses in Virginia, their owners and their families, as well as the economy of this state, please end all mandates regarding COVID-1984 restrictions. It is in your power to stop the downward spiral we are experiencing into fascism and totalitarianism that Virginians have suffered through since April 2021. Having Virginia back to normal means people can once again use and enter businesses and buy things without unnecessary fascist rules that have prevented businesses from making money, in turn being able to support their families. Please return Virginia to its heritage of freedom and liberty--you have it in your power to do this if you really cared about the well-being of Virginia citizens. Everyday its flag flies all over the state with lady liberty conquering tyrants. Allow people to make their own decisions free from government tyranny.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99497 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99497
I don't consent to outright fraud and usurpation of human rights to HIPAA protected health standards
I don't consent to outright fraud and usurpation of human rights to HIPAA protected health standards. Fauci patented the vaccine full of spike proteins and "Dr" Burks has no license to practice medicine on live human beings. I suggest you listen to Dr. Andrew Kaufman, Robert O. Young, Tenpenny, and many other licensed doctors specializing in this field.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99498 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99498
Strongly object! Strongly Object!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99499 Debbie 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99499
16VAC25-220 / not the will of we the people Not the will of we the people- enough!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99500 Sheila T 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99500
Strongly Oppose This is definitely government overreach - not of the people and by the people. You're going way too far. This virus was patented years ago and is man made. Masks don't work. Your biological experiments have serious outcomes that are not being reported. We the people are not guinea pigs. I object to forced injections, especially to children. I object to mandatory masking.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99501 Rodney Miller 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99501I oppose! My body, my choice! Right!! The standard does not require employees to be vaccinated.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99502 Tim Kiser 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99502
I oppose 110% What you people are proposing is unconstitutional and asinine at best. You have no legal standing and no scientific proof to back it up. Goodluck.....

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The constitutionality of the VOSH Standard was challenged in Richmond Circuit Court and upheld (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Order Granting Motion to Dismiss, March 4, 2021). The case is on appeal to the Virginia Court of Appeals (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Notice of Appeal, March 31, 2021).

99503 Gentlemans Ridge Farmstead and Catering Service 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99503

Permanent restrictions Absolutely oppose!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99504 Gentlemans Ridge Farmstead and Catering Service 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99504

Permanent restrictions Absolutely oppose!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99505 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99505
Health restrictions I strongly oppose all restrictions on anyone related to health.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99506 Jackie 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99506
No There is no emergency. COVID has a 99.9% recovery rate. We will not comply and we will take this to court.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99507 Gretel Mangigian RN 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99507
I do not consent I oppose!!!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99508 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99508

Nuremburg Be advised - Virginia state officials who endorse the vaccine and any related mandates will be subject to the Nuremberg code. Enough already. The public is on to your manipulation. We will vote you out and you will go to jail. We are watching you. "I was just following orders" is no excuse.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.

99509 Chris Cook 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99509
Absolutely no more laws! Let us be free! We are not children. We can take care of ourselves.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99510 Patricia Haman 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99510
I DO NOT CONSENT I do not consent

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671

99511 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99511
Unconstitutional COVID Rules I DO NOT CONSENT

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99512 Anonymous 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99512
I DO NOT CONSENT I DO NOT CONSENT

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99513 Anonymous, Albemarle County Schools 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99513
We the People are Waking Up-Stop the Madness Now
I absolutely oppose the continuation of these "health" restrictions in the workplace or any place. It makes no rational sense. The same people that are going to work are then leading their normal lives outside of work, as they should be. Why is the charade going on to "protect" people who are going to their place of employment? If you are sick, stay home. The End.

The media manipulated the numbers to create fear. They censored and suppressed real, working therapeutics such as Ivermectin and HCQ which could have prevented many deaths. Please do the research and find out the truth. Wake up, this is not about politicians and bureaucrats "caring" about our health. The PCR tests are not valid. Asymptomatic people are not spreaders.

First of all, it is not a vaccine. It is an experimental gene therapy. This is in the literature from the companies that make them. Can you imagine what it will be like for a person who chooses not to be injected with toxins and other non-kosher ingredients to be treated differently than those who took the experimental injection by wearing a mask on their face, thereby announcing to EVERYONE at work and the public their own private health information? Do you know of a time in history when a group had to self identify by wearing a symbol to separate them from the rest of society? (Hint: Germany.) This is disparate treatment plain and simple. If the vaccine works then those who are vaccinated are safe. Those who choose not to be vaccinated, or who can't be vaccinated because it might KILL THEM or make them permanently disabled should not be forced to wear a bacteria collecting cloth on their face to identify themselves. There is no scientific study to back up the benefits of wearing a mask to prevent COVID.

Stop masking children. It is child abuse, and unscientific. Stop masking adults. How many Virginians have committed suicide in this last year and more of debilitating tyranny and repression? How many people have lost their jobs, businesses, employees, their whole livelihood? This cannot continue. Humans need to see each others' facial expressions, to hug, to shake hands, to help and love one

another. Stop these mandates. We the People are not going to take it anymore, God is watching, and those in elected offices who facilitate this knowingly or without doing the due diligence to discern the truth will be removed through legal process, as well as those who are using this for personal gain or exploitation.

Those who want to wear masks and take the experimental gene therapy are free to do so. Those who want to stay home may do so as well. Virginians have a right to freedom, liberty and the pursuit of happiness. Without these rights, this state will fall into an economic, societal, and moral abyss. If you care about the working people of Virginia, remove these restrictions now.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99514 Amy 7/23/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99514

Ditto - “We the people are waking up”
The commenter just before me expressed my sentiments exactly. Let Virginian employees and employers be free to make their own health decisions!! We do not need special COVID laws in the workplace. This will only restrict and discourage businesses at a time when we need them to grow.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99515 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99515

This madness has to stop!!! The majority of Virginian's do not agree to have these restrictions continued to be placed on businesses in our state, or any state for that matter!!! This covid flu is 99% survival, there is no reason for these continued measures. Our community, our businesses, our state NEEDS to be able to open and function freely again!!! We need our Virginia back!!!!
Thank you for your time. And it's time to listen to the people who have hired you!!
Thank you,
A fellow Virginian

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99516 Doris 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99516

Pharma-Phile segregation WE DO NOT CONSENT to permanent fear mongering

The CDC is a captured agency with intent to sell vaccines only not heal people! They sell the drugs that people need after being injured. This is unconstitutional and irresponsible to allow this medical segregation to continue! What happened to HIPPA privacy laws? What happened to MY BODY MY CHOICE? What about natural immunity?? Has the world already not been destroyed enough? Leave our children ALONE! The CDC has lied and masks do not work! All this to coerce people to take an EUA shot! Racial segregation and medical segregation is unethical, immoral, unlawful and just plain evil!!! The CDC is not elected and Northam your term is about over thank God. There are cures for this Ivermectin, HCQ, and Budesonide we the people aren't falling for the fear mongering propaganda. No to this "New Normal" no way this should be permanent. This must stop we do not consent!! Bill Gates is no more of a Doctor than Anthony Fauci is honest. Please do the right thing and honor our first Amendment rights given to us by GOD! Our constitution is suppose to protect us from the government tyranny! This is absurd that these unelected officials who have a huge CONFLICT OF INTEREST should be listened to!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99517 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99517
OPEN UP Open the state completely without restrictions! This nonsense must stop! 99.7% survival rate! Enact common problem treatment protocols such as hydroxychloroquine, Zpac, vitamin C, Zinc, etc., etc! Stop the madness! Send the extra Federally funded $300 per week that was qualified to receive to the families STILL waiting since last spring!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99518 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99518Masking children is abuse "there is no evidence suggesting mask work for stopping a virus. In fact there is much evidence suggesting the molecules are too small to be stopped by any cloth masks. This is nonsense. Children are the least vulnerable almost none of whom have died of covid.. any children who have died had serious health issues that were the reason they died. Please stop the abuse of children. This is down right disgusting! Anyone suggesting such a thing should be ashamed of themselves...

SEE RESPONSE TO COMMENT 99520
The standard does not apply to children unless they are employed.

99519 lynn 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99519
We the People DO NOT CONSENT 99% survival rate does not a pandemic make. This was orchestrated to steal the election to prevent President Trump (the rightful winner) from restoring power

to the people of this beautiful Nation. Politicians forgot THEY WORK FOR US we ARE NOT subjects to be ruled. WE DO NOT CONSENT.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The Trump Administration initiated Operation Warp Speed to combat the spread of the SARS-CoV-2 virus and the initiative has resulted in significant reductions in U.S. and world deaths, hospitalizations, and long term illnesses. Per the Government Accounting Office "Operation Warp Speed (OWS)—a partnership between the Departments of Health and Human Services (HHS) and Defense (DOD)—aimed to help accelerate the development of a COVID-19 vaccine. GAO found that OWS and vaccine companies adopted several strategies to accelerate vaccine development and mitigate risk. For example, OWS selected vaccine candidates that use different mechanisms to stimulate an immune response (i.e., platform technologies; see figure). Vaccine companies also took steps, such as starting large-scale manufacturing during clinical trials and combining clinical trial phases or running them concurrently. Clinical trials gather data on safety and efficacy, with more participants in each successive phase (e.g., phase 3 has more participants than phase 2).
....
As of January 30, 2021, five of the six OWS vaccine candidates have entered phase 3 clinical trials, two of which—Moderna's and Pfizer/BioNTech's vaccines—have received an emergency use authorization (EUA) from the Food and Drug Administration (FDA). For vaccines that received EUA, additional data on vaccine effectiveness will be generated from further follow-up of participants in clinical trials already underway before the EUA was issued.

Technology readiness. GAO's analysis of the OWS vaccine candidates' technology readiness levels (TRL)—an indicator of technology maturity— showed that COVID-19 vaccine development under OWS generally followed traditional practices, with some adaptations. FDA issued specific guidance that identified ways that vaccine development may be accelerated during the pandemic. Vaccine companies told GAO that the primary difference from a non-pandemic environment was the compressed timelines. To meet OWS timelines, some vaccine companies relied on data from other vaccines using the same platforms, where available, or conducted certain animal studies at the same time as clinical trials. However, as is done in a non-pandemic environment, all vaccine companies gathered initial safety and antibody response data with a small number of participants before proceeding into large-scale human studies (e.g., phase 3 clinical trials). The two EUAs issued in December 2020 were based on analyses of clinical trial participants and showed about 95 percent efficacy for each vaccine. These analyses included assessments of efficacy after individuals were given two doses of vaccine and after they were monitored for about 2 months for adverse events.
https://www.gao.gov/products/gao-21-319

99520 Va Nurse Powhatan 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99520

Please stop, Our kids deserve better This madness has to stop. As a nurse, I see first hand the cases and occurrences of covid cases. Right now there is so many fabrications of covid numbers. Stop making people fearful for your agenda. Of course "this" variant "attacks" kids more, they are the only ones not eligible for a vaccine. Of course it would be the target range so moms will be scared and vaccinate when available, big pharma gets paid, as well as the pediatricians all over. Stop. Our kids don't need masks.

They have immune systems. God is more powerful than medicine and science. It should be parent choice.
By optional masking, both sides win. Those who want to wear a mask can...those who want freedom can have it. Stop mandating bull crap!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

With regard to the efficacy of face masks/face coverings, the CDC states:
"SARS-CoV-2 infection is transmitted predominately by inhalation of respiratory droplets generated when people cough, sneeze, sing, talk, or breathe. CDC recommends community use of masks, specifically non-valved multi-layer cloth masks, to prevent transmission of SARS-CoV-2. Masks are primarily intended to reduce the emission of virus-laden droplets ("source control"), which is especially relevant for asymptomatic or presymptomatic infected wearers who feel well and may be unaware of their infectiousness to others, and who are estimated to account for more than 50% of transmissions.1,2 Masks also help reduce inhalation of these droplets by the wearer ("filtration for wearer protection"). The community benefit of masking for SARS-CoV-2 control is due to the combination of these effects; individual prevention benefit increases with increasing numbers of people using masks consistently and correctly.

Source Control to Block Exhaled Virus
Multi-layer cloth masks block release of exhaled respiratory particles into the environment,3-6 along with the microorganisms these particles carry.7,8 Cloth masks not only effectively block most large droplets (i.e., 20-30 microns and larger)9 but they can also block the exhalation of fine droplets and particles (also often referred to as aerosols) smaller than 10 microns ;3,5 which increase in number with the volume of speech10-12 and specific types of phonation.13 Multi-layer cloth masks can both block up to 50-70% of these fine droplets and particles3,14 and limit the forward spread of those that are not captured.5,6,15,16 Upwards of 80% blockage has been achieved in human experiments that have measured blocking of all respiratory droplets,4 with cloth masks in some studies performing on par with surgical masks as barriers for source control.

Filtration for Wearer Protection
Studies demonstrate that cloth mask materials can also reduce wearers' exposure to infectious droplets through filtration, including filtration of fine droplets and particles less than 10 microns. The relative filtration effectiveness of various masks has varied widely across studies, in large part due to variation in experimental design and particle sizes analyzed. Multiple layers of cloth with higher thread counts have demonstrated superior performance compared to single layers of cloth with lower thread counts, in some cases filtering nearly 50% of fine particles less than 1 micron .14,17-29 Some materials (e.g., polypropylene) may enhance filtering effectiveness by generating triboelectric charge (a form of static electricity) that enhances capture of charged particles18,30 while others (e.g., silk) may help repel moist droplets31 and reduce fabric wetting and thus maintain breathability and comfort. In addition to the number of layers and choice of materials, other techniques can improve wearer protection by improving fit and thereby filtration capacity. Examples include but are not limited to mask fitters, knotting-and-tucking the ear loops of medical procedures masks, using a cloth mask placed over a medical procedure mask, and nylon hosiery sleeves."

To the extent that the commenters who opposed a mandatory face covering requirement can be considered to represent any significant percentage of people living, working or traveling through Virginia, their views expressing a refusal to wear masks in public or business settings, unintentionally strengthens the case for a face covering (or other personal protective equipment and respiratory protection equipment) requirement in the Standard.

The stated commenters bolster the credibility of research presented to the Board by the VOSH during the adoption process for the VOSH Standard and the Emergency Temporary Standard (ETS), that employees will face a higher risk of virus exposure in the coming months because a certain segment of the population will refuse to wear face coverings or observe physical distancing of at least 6 feet when interacting with employees.

99521 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99521

WE DO NOT CONSENT ANY FURTHER ILLEGAL STATE POWERS AGAINST LAWS OF THE LAND We DO NOT GIVE OUR CONSENT to you to make permanent or temporary any further powers mandate or force FDA emergency Tests, Vaccines, Mask, or Lockdown on any school, business, recreational place, event, public, private, or non-profit entity any longer. Such acts or powers are illegal and against precedence of Nuremberg, Hippa, Magna Carter, Bill of Rights, and Constitution Laws which protect all citizens and aliens from any of your such actions. You do not have the right circumvent these protection laws for the people any longer. You have tried with no aveil and achieve same result and keep doing same action against our divine given freedoms of choice privacy and safety. We telling you to stop now. The light is shined on you. We the people are awake. Whether knowingly or not, each you are complicite. If you continue, you will be held accountable removed from office and prosecuted to maximum extent of the law for taking away our rights and infringe on laws of land. We are putting you on notice to stop these power grabs. You are not kings, tyrants. We elected you to enforce current laws of land and such amendments of obscene new power need be voted on by people. The few DO NOT outway our rights of many according to Nuremberg Laws with experimental medicine and acts take away our laws privacy and choice with uninformed consent and safety. Stop now and do right thing to these laws of land, people of VA can forgive.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.

99522 Debi Lovell 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99522

I do not consent You should not be making anything permanent concerning covid----its a virus--it has a 99% recovery rate. Do not implement any of the draconian rules you had in effect since last year. We the people do not consent....

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671

99523 Bobby Dunn 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99523
Total BS I think this is total BS we should be able to make our own decision on what we can and can't be told what to do, We are losing our FREEDOM day by day from these idiots and it's time we the people do something about it !!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
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99524 A Patriot Who Will Not Play Your Games 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99524
Follow real science, not $cience "What is being imposed has nothing to do with our health. This is pure political theater. As I am sure you are well aware, COVID has a 99.98% survival rate. That is real science. We the People are well aware that those such as Faucci are bad actors and promote junk $cience. There is an agenda at play, which is to establish the Great Reset, the global Marxist One World Order, where vaccine passports are the ticket for living in the confounds of this vision. We know this to be true since those of certain ruling families have talked openly about this for decades now. This is not some crazy conspiracy theory.

Here's the bottom line, We the People, the patriots, will not consent or take part in this Marxist takeover. We see straight through what you are doing. We will not wear your masks or get your vaccines. We will not subject our children to your forms of child abuse. We know they are virtually at no risk of catching COVID to begin with. We do not participate in your diabolical and destructive games, follow your toxic media whose lost the narrative, or listen to your junk $cience. We ask that you defend the dignity of a human being, from conception to natural death, because if the least vulnerable humans amongst us do not have their human rights honored, then none of us have human rights. When you start defending all human rights, born and unborn, then we know you are serious about saving "just one life." Until then, it's very clear what agenda you have at play, and it's not about saving lives or human rights. Choose wisely, we are watching you very closely.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.
The standard does not apply to children unless they are employed.

99525 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99525
Wrong "Trying to dictate mask use and vaccination is totally wrong. This has become nothing more than a political propaganda tool. You are now trying to infringe on personal liberty and fear mongering. This is

being used as a way to divide us so that we will be easier to control. Do not mandate masks or vaccines. Allow us the freedoms given us through the constitution and our rights afforded us by being an America Citizen. Step back from this attempt to strip our rights open up and remove all restrictions brought on by this last years events with COVID. It is again time to live in freedom.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.

99526 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99526
Stop It is time to conform to real science, not one politically motivated.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99527 Jessica Bauer 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99527
Strongly oppose
The damage done to society from covid is drastic, and much of it was largely preventable. The constant focus on fear-based tactics have destroyed businesses, academic achievement for students, and friendships. There is no need to make any of these policies and procedures permanent. I strongly oppose making policies that force people to continue to live in fear.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99528 Mr Not Consenting 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99528
Abssolutely not "I do not consent to any of this. Stay out of peoples lives or expect them to rise up! and take the stupid mask off of the kids.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The standard does not require employees to be vaccinated.
The standard does not apply to children unless they are employed.

99529 Heather M 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99529
I do not consent! This is a Nuremburg code violation
just stop with this. All of this is experimental. Nuremburg Code! Faith over Fear. Put God in your life and you wont be afraid!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.

99530 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99530
Vaccine Discrimination "I oppose the permanent restrictions. This appears to be political theatre or "the blind leading the blind". What happened to "My Body, My Choice..."

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.

99531 Citizen of VA and USA 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99531
STOP the Unjustified Restrictions!!
DO NOT permanently implement these temporary Standards!!!
There is absolutely no science or data to justify their implementation, which would impose undue and harsh restrictions and penalties upon the public and their ability to freely make a living and live their lives as they choose.
You were elected or appointed, directly or indirectly, by the people of Virginia, and thus your primary objective should be to do all in your power to enable them to live their lives freely and prosperously.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99532 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99532

”Ralph” means vomit for a reason!! You are ALL sick, . We the People do NOT consent and the power belongs to US.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99533 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99533OPPOSED
Read and re-read our Constitution and the Bill of Rights.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The constitutionality of the VOSH Standard was challenged in Richmond Circuit Court and upheld (Virginia Manufacturer’s Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Order Granting Motion to Dismiss, March 4, 2021). The case is on appeal to the Virginia Court of Appeals (Virginia Manufacturer’s Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Notice of Appeal, March 31, 2021).

99534 The Land of the Free, Home of the Brave 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99534

The Constitution i is the Law of the Land. We are free people. You are all attempting to violate our rights which is a violation of the Nuremberg Code.
Do you know the penalty for Crimes Against Humanity?
WE DO.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.

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99535 richard bollinger 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99535
Just say nooooo"Look government is fine and needed in some cases, but seriously need to stop the intrusion into are lives and businesses. Take all this covid support and put it into our law enforcemeour law enforcement. Then maybe we can get drugs and gangs under control. If you want to help people in VA maybe consider a proper castle law for the protection of life and property

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99536 ANONYMOUS 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99536
ABSURD RESTRICTIONS FOR VIRGINIA CITIZENS!! "Why does our State Government want to punish us further? There is NO SCIENTIFIC PROOF that masks and social distancing reduce the possibility of infection for viral diseases. Furthermore, COVID was produced in a laboratory for use a a bioweapon. Instead of punishing citizens, we should throw the purveyors of this virus out of our government and our country.
Landlords, small businesses and even large businesses have suffered greatly due to the restrictions you want to make permanent. Regular citizens went unemployed for as long as a year and in the end, we learned that statistics were falsified with respect to the number of cases AND the number of deaths. All these losses were UNNECESSARY, just as your ridiculous restrictions are UNNECESSARY.
My question is: Why are you eager to make the citizens to SUFFER MORE? This is a legitimate question. Every day we learn more about why COVID 19 exists and who is behind its creation and spread.
If instituted permanently, these restrictions will result in numerous court cases related to the violation of rights under our Constitution. Our State will spend $$billions of dollars defending itself in for which costs will be passed along by way of taxation to the citizens.
As is occurring in California, PEOPLE WILL LEAVE THIS STATE IN DROVES and you can turn Virginia into a prison colony.
This proposed regulation is an absurdity and an affront to the tax paying citizens of Virginia

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99537 American Deplorable 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99537
HOLD THE LINE PATRIOTS! We will not bend. We will not break. We will not yield. We will not give up. We will not give in. We will never, never, ever surrender.
For God and country, We the People are strong in faith, in both our creator and each other, that together WE WILL WIN. No man can take what God has given, and we say that we decide where to go,,how to live and to defend our constitutional rights Be on notice that you are in violation of your constitutional oath, and not even George Soros can keep you in power
NCSWIC .

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99538 Tammy T. 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99538
I strongly oppose this! "I strongly oppose making ANY COVID-19 prevention measures permanent for employers or any citizen in any circumstance. This is an exercise in further government control and should be left to each individual as to how to best protect themselves from COVID or any other illness in the world. Stop with the control measures and let people live in our free society! This would put an unnecessary burden on employers as well. I again vote no to making any current prevention procedures permanent in any circumstance as it relates to COVID-19.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99539 Virginia Citizen 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99539
No, just NO "It doesn't take a rocket scientist (or overpaid lying government health officials) to see that what has taken place regarding the "pandemic" response has been not only ridiculous, but detrimental to not only our state but the country as a whole.
Stop ruining our economy. Stop hurting our children. Stop trampling the God given rights of the citizenry, which flies in the face of The United States Constitution.
I have played along with your games until now. I have done your "15 days to flatten the curve" which has turned into the absolute worst year+ I can remember.
Whatever your decision on this matter is, I am done, I will refuse, I will not comply.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99540 Amy 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99540
NO This needs to stop! And if more people were aware they could comment on this they would be. Primaries are coming soon and I hope Virginians get the people making poor decisions out and get good representatives in. Freedom!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377

SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99541 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99541
Cvd19 I strongly oppose!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99542 Suzanne G. 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99542
Stop government control! "I oppose the continued restrictions. The mask mandates are NOT healthy. To continue this “theatre” in the community when it has been documented that homemade and store bought cloth masks do not work. People need fresh air! The proposed vaccine mandates have no place in a free country. All these people that think it is ok to pressure someone to take a vaccine with no long term studies is beyond comprehension. If you believe in the vaccine, get it and you are covered! It shouldn’t matter wether anyone else is vaccinated. Or don’t you people pushing this believe in the protection of the vaccine that you are pushing?

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99543 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99543
FOR SHAME "I absolutely OPPOSE making these standards permanent. This is lunacy, we are harming our children with this useless mask mandate, harming ourselves psychologically as adults and as far as the vaccine, what happened to my body, my choice?!
This is NOT a conspiracy statement: the deaths that GROW from this thing that hasn't had hardly enough YEARS of testing in humans is dangerous. I cannot believe that businesses, states, schools are mandating this thing.
And at this point, people need to be given back their responsibility for their own immune system and a chance to build their immunity on their own! I am furious about what is happening.
And discrimination against the unvaccinated is growing, it's horrendous.

SEE RESPONSE TO COMMENT 99342
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SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671

99544 M smith 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99544
OPPOSED This is government overreach. Do not impose. This is not nazi Germany

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not apply to children unless they are employed.

99545 Kristy M. 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99545
Communism 101 We are awake. Stop trying to take our God given freedoms. So, if an anonymous employee reports their workplace do you fine them or shut them down? Hmm, I've read about this in communist history where the government would fine places of employment an outrageous amount of money which the company was unable to pay, thus were shut down. Then, you crushed multiple players at the same time. You were able to shut down local business, cause workers to be unemployed and the general public could only shop where the government wanted. Fully dependent on the government. I see where you are going with this.

SEE RESPONSE TO COMMENT 99342
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SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
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99546 Eric Kennedy 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99546
Science/Facts-on-the-Ground Do Not Support Continued Lockdowns
There is enough data now from various countries and states to strongly indicate that lockdowns are not effective. Worse, the continued lockdowns and forced wearing of masks is having MAJOR negative psychological effects on the population, especially children. In other words, the lockdowns/mask are doing far more harm than good. Whether you agree or not, the prevalent opinion in the country now is that the lockdowns are being used for political purposes.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The VOSH Standard does not contain any lockdown provisions.

99547 Lisa 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99547
Outrageous I feel like I've landed in a bad episode of the Twilight Zone. You people have stolen a year from my kids' lives. My son will never get his senior year of high school back. My daughter will never get her freshman year back. Small businesses all over the state and country will never return. Suicide rates are on the rise. I have personally watched young children become anxious and withdrawn. All of this over a virus with a 99.8% rate of recovery. 99.8%! That's not a number that came out of thin air…that comes directly from the CDC. Eliminate the useless mask mandate and allow people to make personal and PRIVATE health decisions with their doctors (my body, my choice, right?).

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The VOSH Standard does not contain any lockdown provisions.

99548 C.C. 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99548
Ungoverned Individual Responsibility is Paramount to a Free Society
Throughout life, individuals are faced with choices. Many of these choice are between something of the highest good and that of a lower good. Historically, the masses, have chosen the higher good. This decrement, is what allows all of us to mingle in trust, without deeply knowing one another. It is what allows us to stand in line, with our backs towards another without fear that we will be slain. This trust in one another and the responsibility we hold within ourselves to be of the highest good, is what allows us to be free. As a nation, we have seen what these measures to do the human psyche, small business, and our developing youth. We see that less freedom and more law, results in increased drug use, suicide, depression, anxiety, and loss of income. People must have the ability to make their own choice, to live their lives in a way that fulfills their soul, and these regulations diminish the spark of life within us all. The survival rate of this virus is laughable to the mitigation measures. Even more so, the infection rate, with 7.5% of Virginians contracting the virus and .14% of these infections resulting in death. The death rate of this virus for Virginians is less than that of those who have died of cancer and heart disease. The argument has been made several times and falls on the deaf ears of politicians over and over again, but deaths of this virus could have been prevent before its existence. If the government was truly concerned with the health of the American population carcinogenic additives would not be allowed in our food, transfat would be eliminated from our diets, refined sugars, tobacco, alcohol, and human growth hormone would not be allowed to enter our bodies. Instead it is common place for all American to ingest one of the above daily, for many this happens more than once. It is known that obesity, smoking, and heart conditions contribute to the mortality of this virus, yet nothing has been done to address these circumstances that could be remedied or mitigated. Instead the focus is on oppressing the majority who are in proper health. Which in turn will create stress, which leads to use to alcohol, drugs, poor diet, increased cortisol (affecting the heart), and the new commonality, suicide. These measures will continue to strip freedoms and lessen individual responsibility. It must be up to the people to maintain their health, their sovereignty, and their responsibility to lookout for not only themselves but others for this Nation to remain free and heal.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377

SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99549 Brian 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99549
None of the Science supports Lockdowns or Mask Mandates
No more lockdowns or mask mandates. Studies have shown and continue to show that lockdowns do not help, and that masks are useless or nearly so against viruses. Future lockdowns and mandates would only cause more damage to the people.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The VOSH Standard does not contain any lockdown provisions.

99550 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99550
Opposed Strongly oppose this!!!! "SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99551 Sara P. 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99551
No more mandates "The governing body in Virginia has done plenty to push locally owned small businesses to close their doors permanently. Forcing more restrictions permanently will only do further harm to the small number of locally owned small businesses that are left. Hasn't the population/economic well-being of Virginia suffered enough with the drastic lockdowns we experienced? I am absolutely opposed to further dividing society and causing grief for our citizens in this state. It seems odd that the state's governing body is trying to make permanent a temporary mandate for a temporary problem. Haven't the numbers in the Virginia statistics declined? Then there is no need to further force the citizens of this state to continue under such drastic measures.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The VOSH Standard does not contain any lockdown provisions

99552 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99552
No to more controls placed on bussinesses I am totally opposed to placing additional restrictions on our businesses. They have struggled enough to stay afloat during this difficult time. Instead, make laws that help our businesses!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99553 Amanda Edwards 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99553
OPPOSE!!!! The survival rate for this virus and vaccination rates of people do not support this type of government overreach. The government has no place in making any mandate regarding infectious disease permanent and is a violation of the Nuremberg code. I strongly oppose.

SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99554 John Wilson 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99554
Absolutely oppose any further lockdowns or mask mandates. I absolutely oppose any further lockdowns or mask mandates. This charade has continued for far too long and needs to end. Herd immunity from a flu like virus (covid 19) is all that is necessary for this current flu strain to end. For the first time in history a mandated lockdown and mask wearing was instituted and it was an abject failure. See Sweden as comared to other European countries for the correct response to Covid 19. Never locked down, never mandated mask wearing. And don't get me started about the destruction to the economy and our childrens education over the last 18 months.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The VOSH Standard does not contain any lockdown provisions.

99555 Gainesville resident 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99555
STRONGLY OPPOSE We oppose this and any other of your tyrannical actions. We will recall and hold you personally responsible.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99556 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99556
I DO NOT CONSENT TO COMMUNISM "REAL science (you know, the science that is heavily censored on mainstream media and only available on mostly uncensored news sources) shows us that masks are useless against viruses. They create physical and mental stress, especially to children and to those having to wear one in order to keep their jobs or receive certain necessary health care services. This stress in turn decreases the immune system, creating increased vulnerability to illness. Of course, our governor, who is a pediatric neurologist, knows this to be true and factual. He is clearly more concerned for his own finances than for his constituents.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99557 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99557
Discrimination "Ready to FIGHT for our freedoms and God given alienable rights

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99558 R.M. 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99558
Do we really want to get to this?
Do you really want to take it to this level? I am copying what another awesome citizen has done to combat this outrageous action.
I made it clear that through my lawyer I would begin to demand the status of all other employee's health conditions in regards to other forms of communicable diseases. We would be demanding information on employee's with aids, hepatitis, flu, STD's, measles, mumps, and so on. My lawyer already had the papers drawn up so I could serve him the first day he tried it and a part of the suit would be to force the company to make immediate policies to section off employees who had any illness they could spread including the common cold. If they were going to take responsibility in stopping the spread of covid-19 in the building they were now liable for the spread of anything else. Within 24 hours we were all informed that they would no longer demand to see our papers.

SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

See DOLI §10, FAQ 21: https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

21. CAN MY EMPLOYER LEGALLY ASK IF I RECEIVED THE COVID-19 VACCINE AND AM FULLY VACCINATED?
The Department is not aware of any Virginia law, standard or regulation that prohibits employers from asking employees if they have received the COVID-19 vaccine and are fully vaccinated, and if so, requiring employees to show proof of full vaccination.

HIPAA
The Health Insurance Portability and Accountability Act (HIPAA) applies to "covered entities" and "business associates," and in most cases does not apply to employers. Accordingly, the patient privacy protections contained in HIPAA do not apply to employers who ask employees if they have received the COVID-19 vaccine and are fully vaccinated or require employees to show proof of full vaccination. For further information on HIPAA see: https://www.hhs.gov/hipaa/for-individuals/employers-health-information-workplace/index.html

EEOC
The Equal Employment Opportunity Commission (EEOC) indicates that employers may require employees to show proof of full vaccination, but notes certain issues associated with such a mandate: https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

K.3. Is asking or requiring an employee to show proof of receipt of a COVID-19 vaccination a disability-related inquiry? (December 16, 2020)

No. There are many reasons that may explain why an employee has not been vaccinated, which may or may not be disability-related. Simply requesting proof of receipt of a COVID-19 vaccination is not likely to elicit information about a disability and, therefore, is not a disability-related inquiry. However, subsequent employer questions, such as asking why an individual did not receive a vaccination, may elicit information about a disability and would be subject to the pertinent ADA standard that they be "job-related and consistent with business necessity." If an employer requires employees to provide proof that they have received a COVID-19 vaccination from a pharmacy or their own health care provider, the employer may want to warn the employee not to provide any medical information as part of the proof in order to avoid implicating the ADA.

99559 Robert Birch 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99559
No to making COVID-19 rules permanent
The State of Virginia can play an important role in accommodating special rule changes for natural disasters, pandemic, and other special circumstances. Extending such accommodations does not benefit the public good and creates undue burdens on businesses and the government. The considered changes are unnecessary, create regulatory and administrative complexity, and otherwise interfere with the Life,

Liberty, and Pursuit of Happiness as written in the Constitution. Please restrain your powers so as not to conflict with our collective individual liberties.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99560 Jenny 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99560
Ridiculous! This is ridiculous! End the madness now. People should not be forced to wear masks at work in order to keep their jobs! Breathing In Their own CO2 is proven to make people sick and break down their immunity! It's been a year and half now and it's time to let our own immune system do the work for us. You are NOT allowed to make decisions for us. We are grown ass adults. Allow us to govern OURSELVES!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99561 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99561
Mask and innoculations "Masks mandates are good. Everyone needs the covid shot or this will go on forever.

SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

99562 Kim 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99562
Adding enactment based on incidence rate may be prudent Let me applaud you for attempting to make workplaces safer from respiratory illness while lessening some of the onus previously placed on employers during the height of the pandemic. Thank you for differentiating what is required based on vaccinated vs. unvaccinated/at risk employees and for wording this regulation in a manner that recognizes that "one-size does not fit all".

However, I do see room for improvement. Some of the mandates seem necessary now, but may not be so after COVID-19 waned (as we hope it does). For instance, we currently would want an employee with a fever, malaise, and respiratory symptoms to have a negative COVID PCR before returning to work, but what about the future when the COVID incidence is negligible? Before February 2019 if a patient presented with those symptoms during the summer months, we would not perform a rapid flu test due to the low incidence of infection during the summer. Will employers have to screen their employees in a mixed risk setting in perpetuity? By adding a line in the regulation that would define the minimum

incidence rate threshold at which the regulation would be enacted/enforced, VOSH would reduce confusion in the future.

SEE RESPONSE TO COMMENT 99377

Some commenters raised concerns about the standard being "permanent". The use of the word "permanent" in reference to the Standard reflects the fact that, if adopted, the Standard does not currently have a date on which it would expire. However, the Board has the authority to amend or repeal the Standard as the workplace hazards associated with the SARS-CoV-2 virus and COVID-19 disease evolve and eventually lessen. Va. Code § 40.1-22.

99563 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99563
Absolutely NO "No to unconstitutional restrictions. No to human rights violations. No to HIPPA and ADA violations. No to COVID restrictions

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The Health Insurance Portability and Accountability Act (HIPAA) applies to "covered entities" and "business associates," and in most cases does not apply to employers. Accordingly, the patient privacy protections contained in HIPAA do not apply to employers who ask employees if they have received the COVID-19 vaccine and are fully vaccinated or require employees to show proof of full vaccination. For further information on HIPAA see: https://www.hhs.gov/hipaa/for-individuals/employers-health-information-workplace/index.html

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99564 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99564
NO! No to this.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99565 Sal F 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99565
No! Enough already No! Enough already

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99566 Susan Rose 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99566
NO No more masks. If people don't want to get vaccinated that's up to them and the responsibility of wearing a mask is up to them also. Vaccinated people are safe to be around. I oppose all further mask mandates and closures.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99567 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99567
NO! Data does not back this. Enough

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99568 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99568
NO Follow the actual data not the made up numbers. Enough already!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99569 Sherry B. 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99569
NO!! NO!! & NO!! TO YOUR NWO PROPOSAL! We The People will NOT have it! You're destroying our society. NO!! TO YOUR NWO PROPOSAL! We The People will NOT have it! You're destroying our society and economy based on a SCAM!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671

99570 A wise soul 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99570
The New World Order of Things "Draconian Rule is designed to crush the human spirit.
Covid is just a front to control humanity. WE have naturally achieved herd immunity to the latest man made and chembombed viruses. There is no emergency and we need no state of that.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99571 Mel O 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99571
Absolutely Not!!! This has got to stop once and for all! The vaccines are killing people

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99572 Wendy L. 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99572
Still don't believe in the NWO? New World Order. This is NOTHING but part of the agenda! We the people will NOT allow you to keep taking our freedoms away! You want everyone to toss the rights just to not get the flu?! I had it, my mom had(we are both diabetics and it became covid pneumonia but....WE SURVIVED) and my 82 year old grandmother had it and she did better with it than us! STOP with the lies. These lock downs are NOT concerns over people's health! IT'S ALL ABOUT CONTROL AND WE SAY NO!!!!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

Reports of death after COVID-19 vaccination are rare. More than 351 million doses of COVID-19 vaccines were administered in the United States from December 14, 2020, through August 9, 2021. During this time, VAERS received 6,631 reports of death (0.0019%) among people who received a COVID-19 vaccine. FDA requires healthcare providers to report any death after COVID-19 vaccination to VAERS, even if it’s unclear whether the vaccine was the cause. Reports of adverse events to VAERS foll+H168owing vaccination, including deaths, do not necessarily mean that a vaccine caused a health problem. A review of available clinical information, including death certificates, autopsy, and medical records, has not established a causal link to COVID-19 vaccines. However, recent reports indicate a plausible causal

relationship between the J&J/Janssen COVID-19 Vaccine and TTS, a rare and serious adverse event—blood clots with low platelets—which has caused deaths. https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/adverse-events.html

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99573 A Concerned Citizen 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99573
Under NO Circumstances!!! You are overstepping your bounds, Governor Northam, and we the people do NOT consent! “Safety” at the cost of freedom and civil liberties is not safety at all — it’s an illusion and people are waking up.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99574 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99574
No, no, no to more government regulation. There is adequate information exposure on the risks of covid. There are successful treatments available to covid patients.
There is a FREE vaccine available to anyone who wants it.
It is time to allow adults to make decisions for themselvels and their children.
The government no longer has a role to play in this individual health care decision.
Businesses do not need government help in managing their employees in this matter.
End DOLI's involvement in it. Please." "The standard does not require employees to be vaccinated. The standard does not apply to children unless they are employed.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99575 Betsy Bartlett 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99575
covid restrictions I completely oppose any covid restrictions in Virginia including Mask wearing for anyone and vaccines for anyone none of this is needed for a made up pandemic that has harmed or killed less people than the flu. This government control has to stop.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99576 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99576
Covid measures Absolutely I DO NOT Consent! You're attemp to introduce the NWO is killing our beautiful country! NI to masks and vaccines! Stop killing our kids!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99577 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99577

Opposed Mandates and restrictions are not based on scientific evidence, it is complete government overreach and violation of constitutional rights. It is appalling to force young children to wear masks and be vaccinated. Those who are vaccinated are supposedly protected, as are those who have natural immunity. The government continues to deprive us of our rights. Of course we don't want anyone to fall ill and die, but Covid is not fatal for everyone. Hospitals are not overrun, hospitalizations and death are at a lower level than last year. It is impossible to eradicate a virus and the measures taken in 2020 caused major damage beyond this health crisis. America is turning into a Communist country.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99578 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99578
You've abused our constitutional rights This is just a giant pile of BS. Covid 19 is a SARS 2 Corona virus weaponized to cause blood clots. It's now easily treatable with therapeutics. If you have a very basic knowledge of virus' then you'd know that with every mutation it gets weaker. Unless the govt has come up with another one to use. It's time to get back to normal and open businesses up. Masks on kids and adults for that matter when tested show a high level of CO2 in less than three minutes. Making it harmful as well as causing bacterial infections. That's come from the top virologists in the world. I'll be happy to post to zoom site when they meet in a couple weeks. The covid spike you see if actually coming from those that are vaccinated. Testing done on vaccine samples showed graphine, morgellons and add in the blender of fetal tissue and you have a disaster waiting to happen. But it's for emergency use, which stops once we no longer under emergency conditions. You can listen to the people or not. If you chose to go forward with making it permanent, or people will have enough and rise up and take their lives back. Govt for the people? Or govt being pressured by big pharma and all those campaign dollars. The American people have some hard choices coming in the next few months. Good chance you'll all be without jobs if you don't listen.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371

SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99579 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99579
Personal Responsibility not Government Over reach "NO to more government regulation Enough already. There is adequate information exposure on the risks of covid.
There are successful treatments available to covid patients. There is a FREE vaccine available to anyone who wants it. It is time to allow adults to make decisions for themselvels and their children.
The government no longer has a role to play in this individual health care decision. Businesses do not need government help in managing their employees in this matter." "The standard does not require employees to be vaccinated.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not apply to children unless they are employed.

99580 Don't trust gov. 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99580
Thank you for your efforts however I do not consent to this. As a citizen of VA, I do not consent to this.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99581 Anonymous 7/24/2021
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99581
Absolutely NOT We will not stand for this. Get ready for taxpaying citizens and businesses to leave this state if these draconian mandates continue. The corruption behind the false case reporting, fear-mongerjng, pushing a dangerous experimental vaccine that's not even FDA-approved, and parroting the faulty science of mask-wearing is doing nothing but dividing your citizens, ruining the economy, and causing serious psychological damage particularly to our children. Let people and employers make their own private choices for their comfort level and leave the rest of us alone. Please consider the overwhelming majority of comments opposing this and be a true representative of the people's wishes!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671

99582 David Williams 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99582
Strongly opposed. NO. "Enough is enough. People who wish to be vaccinated have had ample oppty to be vaccinated. Others have not because they will not... They willfully reject it and do not wish to put it in their body - my body, my choice. I mean, it's not like we're murdering the unborn by not getting it.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99583 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99583
Stop this foolishness This must end immediately!!!! Strongly opposed

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99584 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99584
Adamantly opposed !!!!!! I am adamantly opposed to this nonsensical proposal !!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99585 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99585
Strongly opposed No to more Government overreach

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99586 Mary Capwell 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99586
Permanent covid restrictions Strongly oppose!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99587 Anonymous 7/24/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99587
Science ?? Bacterial Pneumonia From Wearing a Medical Mask. Science ?? Bacterial Pneumonia From Wearing a Mask. Need to share/ save/ print this this 2008 article. Wearing those dam CCP manufactured masks 24/7 are going/have killed more people then the influenza virus strain(coronavirus)??
From the U.S. Department of Health & Human Services. Tuesday, August 19, 2008
Bacterial Pneumonia (Masks) Caused Most Deaths in 1918 Influenza Pandemic
Implications for Future Pandemic Planning. The cause and timing of the next influenza pandemic cannot be predicted with certainty, the authors acknowledge, nor can the virulence of the pandemic influenza virus strain. However, it is possible that — as in 1918 — a similar pattern of viral damage followed by bacterial invasion could unfold, say the authors. Preparations for diagnosing, treating and preventing ??bacterial pneumonia ??should be among highest priorities in influenza pandemic planning, they write. "We are encouraged by the fact that pandemic planners are already considering and implementing some of these actions," says Dr. Fauci.??????
NIH website, https://www.nih.gov/news-events/news-releases/bacterial-pneumonia-caused-most-deaths-1918-influenza-pandemic

CDC website https://wwwnc.cdc.gov/eid/article/14/8/07-1313_article

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The commenter appears confused in conflating the wearing of masks with "bacterial pneumonia" accounting for many deaths during the influenza pandemic of 1918-1919:

"The majority of deaths during the influenza pandemic of 1918-1919 were not caused by the influenza virus acting alone, report researchers from the National Institute of Allergy and Infectious Diseases (NIAID), part of the National Institutes of Health. Instead, most victims succumbed to bacterial pneumonia following influenza virus infection. The pneumonia was caused when bacteria that normally inhabit the nose and throat invaded the lungs along a pathway created when the virus destroyed the cells that line the bronchial tubes and lungs.
....
NIAID co-author and pathologist Jeffery Taubenberger, M.D., Ph.D., examined lung tissue samples from 58 soldiers who died of influenza at various U. S. military bases in 1918 and 1919. The samples, preserved in paraffin blocks, were re-cut and stained to allow microscopic evaluation. Examination

revealed a spectrum of tissue damage "ranging from changes characteristic of the primary viral pneumonia and evidence of tissue repair to evidence of severe, acute, secondary bacterial pneumonia," says Dr. Taubenberger. In most cases, he adds, the predominant disease at the time of death appeared to have been bacterial pneumonia. There also was evidence that the virus destroyed the cells lining the bronchial tubes, including cells with protective hair-like projections, or cilia. This loss made other kinds of cells throughout the entire respiratory tract — including cells deep in the lungs — vulnerable to attack by bacteria that migrated down the newly created pathway from the nose and throat."

https://www.nih.gov/news-events/news-releases/bacterial-pneumonia-caused-most-deaths-1918-influenza-pandemic

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99588 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99588
Enough! "Enough government restrictions on citizens and businesses. Enough discriminating and segregating vaccinated and unvaccinated people. We have had enough time to learn how this virus works and we now know that lockdowns/mask mandates don't work!! Europe has thought us that lockdowns have zero effect against COVID-19. It is time individuals got to decide for themselves and their families.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99589 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99589
Unconstitutional and illegal. We do not consent.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The constitutionality of the VOSH Standard does not contain any lockdown provisions.
was challenged in Richmond Circuit Court and upheld (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Order Granting Motion to Dismiss, March 4, 2021). The case is on appeal to the Virginia Court of Appeals (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Notice of Appeal, March 31, 2021).

99590 Josh 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99590
More over-reach anyone? No, NO, NO!!! No. I do not consent.
This is government overreach at its finest. (Sarcastically): sure, let's discriminate between vacc and unvacc. HIPAA rules anyone? "My body, my choice?" Imposition of mandates - closes in on CCP territory. That's right - I said it. China Communist Party. In great contrast, trusting the people to make their own decisions, in their own best interest... priceless. WE THE PEOPLE. Not, "we your subjects." Step off the high horse, the over-lording. Stop attempting to dominate the sh*t out of everyone. INSTEAD, look to

the founders' (Virginia-bred) notions of freedom, liberty, individual rights, for life, for the pursuit of happiness. This covid, greek-letter-whatever variant is still a "variant" of the CHINA VIRUS. Yes: say those words. CHINA VIRUS. China will be made (or shamed) to pay retributions, reparations. For the immense loss of life - and capital - their little "experiment" has caused. Keep Virginia Free. Make Virginia Freer. Stop the overreach. Abandon the overloading. Kill these regulations and their amendments. Free the people. See the glory, the fresh air of freedom that happens - when free people are kept... FREE.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99591 Donna M Williams More 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99591
I Support the Stadard "As an HR professional I support the new standard. Codifying what must be done helps me protect my co-workers. Masking, temperature screening, and sanitizing led to a decrease in passing around respiratory infections last winter. I don't think it should apply only to COVID, I think it should be widened to cover all communicable diseases.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99592 Tonya 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99592
No Mandatory Anything when it comes to our health! As an American citizen living in Virginia, I demand that my Rights according to the Constitution be recognized. You cannot force me to wear a mask, which has no scientific basis, and you cannot force my children to wear one. (which has been proven unsafe) You cannot keep Americans from traveling freely and you most certainly cannot force an experimental drug on us. You cannot keep us from gathering and you cannot close down businesses while leaving the Big Name franchises open! I demand to be heard and expect you to listen! I will not comply with unconstitutional orders.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.
The standard does not apply to children unless they are employed.

99593 Staunch Patriot of our Republic 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99593

FERVENTLY OPPOSED This goes against our Constitutional Republic which is the glue for our sovereign States. We, as a nation, have been controlled and manipulated long enough and this must stop! We want a living, thriving nation that includes the undergirding, supporting of our businesses, not strangulation of Virginia and it's citizens. This notice of action falls in line with crimes against humanity, which under the executive order placed in 2017 is a punishable offense. Fear mongering and mind control is a NWO mantra and implementation. I fervently oppose this proposal.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99594 Concerned Virginia Resident 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99594

Stop this Insanity! "Stop this insanity now! I am embarrassed for the first time to be a life long, born and raised, Virginia resident of 58 years after reading this Notice. You all know good and well masks, six foot distance does absolutely no good as studies have proven. Go do some research (America's Front Line Doctor's would be a good start). Also, there is no need for any kind of Vaccine passport in Virginia. I am afraid if you keep violating people's rights it's not going to end well (do you want that on your hands? Asking for a friend). Think about our great historical leaders from Virginia that helped form this nation and how disrespected they must feel from their graves as Virginia tries to trample on FREEDOM! Freedom to breath, congregate, worship and all the other things your trying to restrict. It is no wonder many in my area are exploring leaving the state (Never thought I'd ever say something like this!)

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require a vaccine passport.

99595 Formerly Free Citizen 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99595

YOU VIL OBEY: We are not children, we are not slaves Isn't ironic that the party that shrieks about racism and slavery wants to use force to make us show health passports. This is not the same as showing an officer ID for driving a car. Does it mean that, if you do not have a document, that you cannot travel to another state? Does it also mean that you cannot travel to another country? Does it also mean that if you do not have a document or refuse to carry a document that you will be put on a list somewhere, as a citizen who has not OBEYED? And we know what happens to a citizen who does not obey, in the leftist mind. What else will we be forced to do. Hmmm.... I've seen old photographs from other countries of subjects having to show documents, passports to the local police. It didn't end well. It never ends well. "

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require a vaccine passport.

99596 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99596
No Abusing Power If you do it, you become people's enemy!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99597 Di 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99597

Totally opposed, Stop controlling us Totally opposed, stop controlling us.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99598 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99598
CHECK THE SCIENCE-HIPPA Violation The CDC has recently disclosed that only 6% of deaths previously attributed to COVID were actually COVID. 94% were actually attributed to other causes. This means that out of of 160,000 in the US reported to have died from COVID, only 9000 were actually COVID. If you are getting scientific information from the main stream media and those who are standing to gain financially from this, you have been fooled. Look deeper.

Many of those who died of COVID could have recovered by early treatment with Ivermectin or HCQ. Why did the media censor valid scientific research from many years of the safety and effectiveness of these therapies? These are CRIMES AGAINST HUMANITY. The number of people that died in 2020 was the same as the number of people who died in 2019, 2018, 2017. There was no reported FLU in 2020. THERE IS NO PANDEMIC.

10,000 people have so far have been reported to VAERS in the US as having died from the experimental shot since Dec 2020. It is estimated that only 1-10% of actual experimental shot deaths are recorded or reported. Is the state of Virginia and all those who are making these unscientific, unconstitutional and controlling rules going to be responsible for their wrong actions when the truth comes out? Yes they are. And like at Nuremburg, saying that "I was just following orders" is not going to save you.

When you go to work or school, should you be asked, "do you have a cold, do you have AIDS, do you have a disability, are you ADHD, do you have measles, do you have cancer, do you have chronic inflammatory disease, do you have ringworm.....". It has NEVER been the responsibility of an employer to monitor the health or diseases in the community or the private health choices of customers or

employees. This will not stand and those who are complicit in creating these rules in future WILL BE HELD ACCOUNTABLE in both professional and PERSONAL capacities.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The Health Insurance Portability and Accountability Act (HIPAA) applies to "covered entities" and "business associates," and in most cases does not apply to employers. Accordingly, the patient privacy protections contained in HIPAA do not apply to employers who ask employees if they have received the COVID-19 vaccine and are fully vaccinated or require employees to show proof of full vaccination. For further information on HIPAA see: https://www.hhs.gov/hipaa/for-individuals/employers-health-information-workplace/index.html

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99599 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99599
NO You know better that this is all about control. Stop doing this to yourself and to others . What you do will come back to you. Promise. so, NO!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99600 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99600
NO You know better that this is all about control. Stop doing this to yourself and to others . What you do will come back to you. Promise. so, NO!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99601 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99601
Absolutely not!! Strongly opposed!! Absolutely not!!! Strongly opposed!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377

SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99602 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99602

No! My body, my choice. This is absolute foolishness to attempt to require everyone to get mostly untested chemicals injected into their bodies. This shot was only just released for EU because prior animal reactions were horrific. It was rushed out to the masses before complete safety trials were done. Do NOT require everyone to get this shot, especially children.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99603 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99603
No way It is a choice and should stay that way.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99604 Debra Goodman 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99604"Virginia Tegulatory Toen Hall covid regulations. I strongly disagree with this.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99605 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99605
"Time TO EVACUATE VIRGINIA. TIME TO EVACUATE VIRGINIA….WERE IS OUR SOVEREIGNTY…

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99606 Ed Zachary 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99606
top Holding Virginia Hostage It's time to quit trying to rule by mass hysteria and let the people of the Commonwealth have their lives back. It is not up to you to tell us how to take care of our health, or when we can work. You are elected officials who are supposed to be working to represent the voters, but you, by all appearances are far more worried about controlling us than anything else.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99607 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99607
Strongly oppose this madness I strongly disagree with the attempts to make the COVID regulations permanent. This is affecting personal businesses negatively and is harming our children. Do not force this socialism upon us. At this point I have little hope for our children's generation and the generations after.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99608 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99608
NOOO I DO NOT SUPPORT THIS IN ANY WAY SHAPE OR FORM. I OPPOSE THIS

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99609 Kristen Huffman 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99609
Please stop holding Virginia hostage. " Please stop holding Virginia hostage with regulations that are unnecessary. Each employer should be able to decide for themselves how the Business should be run. Let's get everyone back to work.

SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99610 Betsy 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99610
Don't sign! That/ this is unnecessary and outrageous. Please do not sign this.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99611 Anonymous 7/25/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99611
Remove the Covid Restrictions, I live in Reston Virginia. I would like the Covid restrictions removed as they are not necessary at this time and adversely affect businesses in the area!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99612 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99612
Just stop! Just stop!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99613 Sarah 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99613
Say no! NO! We vaccinated people are not the culprits here! It's the unvaccinated people who are catching it spreading it and obviously causing the mutations. Vaccine people did their part. We have even risked our lives by taking a new vaccine that could potentially cause future Heath problems. We are the ones who caused the cases to drop and almost ended the pandemic until the UNVACCINATED caused a new covid mutation; because I hope we all realize that a virus doesn't just mutate as it floats through air. It mutates inside the body of people who are sick. The covid vaccine is highly effective. Therefor it is no longer my problem. We did our part. It's the unvaccinated people's problem. I will not

be punished for their stupidity. I will not be forded to wear a mask again. I'm done. It's time to stand up and say no!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99614 monica 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99614
do not agree--No! I think everyone is different and everyone has a different kind of health situation. To say that a vaccine, and in particular a genetic therapy, is right for everyone, especially children is not good science or prudent healthcare. We need more open debate on this topic (genetic therapies both in vaccines and other areas such as cancer). Also: why not increase the funding and research for safe treatments for covid, such as ivermectin? Why not more funding and interest in increasing all of our health by way of cleaner air, water, protections for nature, organic and healthy food, renewable energy, funded health insurance for all etc etc. There are other ways to deal with this pandemic aside from knee jerk fear responses of both the left (enforced vaccination with ensuing billions being made by pharma and the rest of it) and the right (conspiracy theories and crying "communism" or "socialism" which are both glaringly born of ignorance). Not everyone who disagrees with these proposals are far right (such as racists and those who storm the US capital et al...) although the media makes it seems so. Thank you.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99615 Karen 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99615
No no no. I am 100% against this!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99616 mbl 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99616
Revoke the Final Permanent Standard does not contain any lockdown provisions.
and any amendments The Virginia Final permanent standard places undue burden on employers throughout the state. The standard needs to be revoked as there is no longer a need for these workplace standards. Virginia as a whole is over the 70% mark in vaccinated people, which means more vaccinated employees in our workplaces.

I believe that VOSH and the SHCB was not forthcoming with information and the announcement on the revision of this standard and the proposed amendments. There was no announcement of the SHCB meeting to address the changes and the notification on the VOSH News page was hidden below an older entry, and is difficult to find looking through the VOSH webpage.

In the SHCB meeting Mr. Withrow alluded to the fact that this amended standard can be used as a tool to get employees to get vaccinated or force employers to require vaccinations, which is not, and should not, be the focus of ANY workplace regulation. This oversteps what the focus of a workplace standard should be about.

Regardless of your stance on vaccinations and covid, that even being said as a statement for a reason to continue a standard that is outdated, and has been since it came out in June 2020, has lagged well behind the CDC in guidance and recommendations. If you are not the one creating the guidance on a Heath issue than you shouldn't be trying to keep up with those who do. This leads to lagging standards and outdated recommendations that the state cannot, in any way, keep up with. This also leads to an expectation that any other communicable diseases will be treated the same way. Federal OSHA does not try to do this and they simply have regulations that are incorporated by reference to other industry standards, this should also be the case for communicable diseases, let the health experts provide the guidance and VOSH stick with workplace guidance.

This is also the only standard that I am aware of that has had required employers to provide 3 different trainings within a year based on amendments to the standard. We trained all employees on the first Temporary standard, then had to change the training once it was the final permanent standard, and now, with the amended standard will require another training to cover the changing regulations. This puts undue burden on the employers, their staff, and any of us that are safety professionals to provide training that is constantly changing. This leads to employee unrest, confusion, and ultimately, unwillingness to comply. As far as an economical impact on employers throughout the state, COVID has cost employers enough money to provide barriers, cleaning, and other measures to protect our employees, and continuing to move the mark is fiscally irresponsible.

Changing the requirements of the standard every three months based on the latest guidance from the CDC creates a lack of trust and willingness to comply with the changes. We constantly get asked why regulations are changing and it causes confusion amongst the employee base. One week we tell them one thing and come back the next wth a change to the regulation. This builds distrust between the employers, the employees and their safety personnel.

VOSH has lagged in replying to employee questions on the ETS, and the FPS and used the FAQ page to only answer those questions they deemed worthy of placing on the page. Personally I submitted at least 5-8 questions through the email box or to various Compliance personnel in the state and was met with either no answer to my question or one of two other responses which were, we need a consolidated answer from Richmond, or you can use our consultation services. Consultation is not geared toward helping large businesses in the state and there are not currently enough of them to handle a crisis such as COVID.

Expecting employers to constantly check a FAQ page in order to comply with a standard should tell you that the standard was not well written. More time and effort should have been put into the creation of the standard so that on release it was a fully functioning/executable/enforceable standard instead of focusing on having the "first in nation" status.

VOSH requiring a mask mandate for those that are unvaccinated and require training for them only is just going to lead to employees providing false information about their vax status, it will not serve to drive employees to get vaccinated.

VOSH addresses this in the standard by stating that an employer can rely on an employees representation that they are vaccinated, but then also states nothing can stop the employer from asking for proof. If, as a business in the Commonwealth, VOSH can fine a business for employees not wearing masks if they are not vaccinated and face citations and fines from 13k to over 130k, then you cannot simply rely on an employees representation. If you want to make a statement with the standard, put

some onus on the employee and require that they provide proof of vaccination, put some language in that defines the employee responsibility as they do in other federal standards like respiratory protection. Employees need to have skin in the game for a standard like this to work.

This one line (employee representation) in the proposed standard is setting businesses up for failure, and also puts strain on employer/employee relationships. Tensions, political opinion, fear, and knowing that employees can lie about their vax status leaves employers vulnerable to exposures in the workplace, and open to confrontations when asking employees of their status or asking to see their vaccination card.

For these reasons please revoke the Final Permanent Standard and allow employers to follow guidance from the CDC. As this is a HEALTH emergency the state, as well as the nation should follow the guidance of those who deal with the health of all.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99617 Small Business in Virginia 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99617

Please Lift Further COVID Related work-place restrictions For the sake of small businesses in our commonwealth who are already struggling to recover from many harmful effects of COVID, or of economy depression instigated by it (some of which have been caused by Government intervention). Please Cancel and lift all COVID related non-medical-work-place restrictions. For those in the Medical fields, there may clearly be need for some further guidance for which I propose we follow WHO and CDC guidance.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99618 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99618

Remove all Covid restrictions! I am a Virginia resident vehemently opposed to the segregation of vaccinated and unvaccinated individuals, the masking of healthy individuals, and the removal of bodily autonomy and informed consent that current Covid-19 policies impose. I WILL be voting for any representatives running for any office that support the right to bodily autonomy, and who strike down/ vote “no” on any legislation or policy that enforces further government meddling in private individuals’ health decisions. The decision to accept medical treatment is for an individual to decide with the guidance of their physician. It is not to be decided by an employer, the government, or any other agency or person. Again, these are the only issues I’ll be voting on for the foreseeable future regardless of party affiliation or other candidate platform issues. We are no longer in a state of emergency, and acting as though we are is disingenuous and deceitful. The people of Virginia demand that this farce come to and end.

SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99619 Patricia 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99619
This must end! I vote against enacting these restrictions.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99620 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99620
guidelines for child care facilities. We are totally confused about the updated instructions from VDOE, that states that staff in child care facilities need to wear a face covering regardless of vaccination status. VDOE cites a mandate from DOLI, but about from the 'final' guidelines from January, I cannot seem to find it anywhere.
We just allowed our vaccinated staff to not wear the masks any longer, and it is a big incentive for the non-vaccinated people to get vaccinated!
I think we should be able to follow general rules as designed by CDC and VDH, just like the general public.

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

SEE DOLI §40, FAQ 57 which is based on CDC provisions:

57. ARE CHILD CARE PROVIDERS AND STAFF REQUIRED TO WEAR FACE MASKS AT WORK, REGARDLESS OF VACCINATION STATUS?
Yes. The Final Permanent Standard (FPS) for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220, has mandatory requirements for all employers in 16VAC25-220-40 and specific requirements for employees exposed to “medium exposure risk” hazards in 16VAC25-220-60, which is the category that would apply to most child care settings.

Section 16VAC25-220-60.C.11 requires the following:

Employers shall provide and require employees in customer or other person facing jobs to wear face coverings.

The CDC’s “Guidance for Operating Child Care Programs during COVID-19,” which was last updated July 9, 2021, provides:

“Most ECE programs serve children under the age of 12 who are not yet eligible for vaccination at this time. Therefore, this guidance emphasizes implementing layered COVID-19 prevention strategies (e.g., using multiple prevention strategies together) to protect children and adults who are not fully vaccinated.”

https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/child-care-guidance.html

Because the CDC states that masks should be worn indoors by all individuals (ages 2 and older) who are not fully vaccinated and that early care/child care settings may implement universal mask use in some situations, such as if they serve a population not yet eligible for vaccination or if they have increasing, substantial, or high COVID-19 transmission in their ECE program or community, employers cannot take advantage of the provision in 16VAC25-220-10.E, which provides:

To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer’s actions shall be considered in compliance with this standard….The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.

https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

99621 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99621

Medical Segregation & Fear. How scary that we have to submit anonymous comments for fear of persecution, death threats, child protective services, or other discriminatory factors because we desire to keep our bodies without interference.

As a Jewish woman and a student of history, it was not just an onslaught of killing Jews during the Holocaust. It started with planting seeds of fear over differences. Then it became restrictions of services. Then it turned into closing of businesses and segregation. Then identification. Then the boxcars.

I will not allow myself or my children be part of a health experiment, especially one with such varied outcomes and without recourse. And to segregate me and my family because we opt out is simple: it puts us no better than the racial segregation from our US history or the path towards murder from my family's history in the Holocaust. This needs to end now.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99622 C.H. 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99622

The End of Nonsense I will not wear in on my faceI will not wear in any placeI will not wear it on my earI will not wear it because of your fear.We will not give upWe will not give inWe will not wear itOn our chinsWe will not takeThis bogus shotMy medical infoAdvertised on my face will NOTBe happening hereBecause of your fearWake up wake upBefore it's too lateRenounce the false religion of

COVIDChange the direction of your fateSatan is laughingTo see you give inAnd he will devour you tooIn the End.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99623 Tina Beauchain 7/26/2021
Masking: A Careful Review of the Evidence. Masking: A Careful Review of the Evidence
"The evidence that masks are effective IS NOT supported by actual science. We need to end the medical tyranny. This article comes from The American Institute for Economic Research https://www.aier.org/article/masking-a-careful-review-of-the-evidence/

The question on whether to wear a face mask or not during the Covid-19 pandemic remains emotional and contentious. Why? This question about the utility of face coverings (which has taken on a talisman-like life) is now overwrought with steep politicization regardless of political affiliation (e.g. republican or liberal/democrat).

Importantly, the evidence just is and was not there to support mask use for asymptomatic people to stop viral spread during a pandemic. While the evidence may seem conflicted, the evidence (including the peer-reviewed evidence) actually does not support its use and leans heavily toward masks having no significant impact in stopping spread of the Covid virus.

In fact, it is not unreasonable at this time to conclude that surgical and cloth masks, used as they currently are, have absolutely no impact on controlling the transmission of Covid-19 virus, and current evidence implies that face masks can be actually harmful. All this to say and as so comprehensively documented by Dr. Roger W. Koops in a recent American Institute of Economic Research (AIER) publication, there is no clear scientific evidence that masks (surgical or cloth) work to mitigate risk to the wearer or to those coming into contact with the wearer, as they are currently worn in everyday life and specifically as we refer to Covid-19.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99624 Grace 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99624
100% no, we want freedom Please stop with mandates and medical segregation. Our child and grandmother have a vaccine injury. It is not one size fits all. I honor my bodily autonomy. Thank you.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99625 The Truth! 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99625
Medical Depopulation ?? A deleted Bill Gates Documentary has been revised
" "remember follow the money ?? “It was the best investment I ever made”- Bill Gates ??$10B investment in vaccines grew to an ROI $200B. A 20-1 ROI ??”..Generically Modified Organisms and injecting them in to the little kids arms and shoot them into the vain”- Bill Gates ??????496,000 Indians had paralyzed from the Gates Gene Therapy Polo Vaccine from 2000-2017 ??????2009. 24,000 Indian girls were given a Gates HPP Vaccine (wellness shots) without any consent from a parent or guardian. Many were severely injured Sourced NIH website -????Correlation between Non-Polio Acute Flaccid Paralysis Rates with Pulse Polio Frequency in Indiahttps://www.ncbi.nlm.nih.gov/pmc/articles/PMC6121585/??African’s are the Gate’s lab rats for the world.??...” this is not the last pandemic we will face. We will have to prepare for the next one..aaaaaa...We will get attention this time” -Bill GatesWTF? ??and both he and his wife smiled over that comment. Are they evil? We will find out shortly I am guessing https://t.me/themelkshow/54225https://www.bitchute.com/video/rAVbQ63Wb0vZ/??1986 law signed by President Regan sign the National Childhood vaccine injury act . WTF? Granting totally immunity to vaccine manufacturers. Legally shielded and the American tax to payers pay the damageshttps://www.congress.gov/bill/99th-congress/house-bill/5546

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99626 Gaston Brothers Utilities, LLC 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99626
Proposed Amendments to the Final Permanent Standard for Infectious Disease Prevention To date there have been185 comments...184 do not support the proposed amendments; granted some are far-fetching, but most have reasonable and substantive logic for not only opposing the proposed amendment, moreover rescinding the the standard.

I too oppose the proposed amendment and think the standard should be rescinded. While I do believe the Board acted in good faith (and under political pressure), it is not an employer's duty (regulatory or otherwise) to govern public health issues. An employer can be a good resource for promoting healthy choices, but the line is drawn there.

There are many unanswered questions relative to how an employer can implement most of the measures contained in the standard without violating employee privacy laws, creating hostile workplaces, HIPAA violations, various anti-discrimination laws, etc.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99627 More Truths 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99627

The FDA announced today that the CDC PCR test for COVID-19 has failed its full review "The FDA announced today that the CDC PCR test for COVID-19 has failed its full review. Its Emergency Use Authorization has been REVOKED. It is a Class I recall. The most serious type of recall. Too many false POSITIVES! This is the test that started the pandemic.
The test used in all the nursing homes in Washington and New York. This was the ONLY test in use until May of 2020. THE VACCINE CAUSES THE DELTA VARIANT! THIS IS THE SINGLE MOST HORRIFIC CRIME AGAINST HUMANITY SINCE THE DAWN OF MANKIND.https://www.fda.gov/medical-devices/medical-device-recalls/innova-medical-group-recalls-unauthorized-sars-cov-2-antigen-rapid-qualitative-test-risk-false-test

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99628 anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99628
no way take this to china where it belongs!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99629 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99629
End the FPS! Employers were led to believe that the standard would be rescinded when the governor ended the state of emergency. Federal OSHA regulations are in place and should be enough for employers to follow.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99630 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99630
No no no!We need less government in our lives FREEDOM!!!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671

99631 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99631
Nanny states. Hey Master Governor , won't you be our Nanny?

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99632 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99632
DEMOCRATS to the free and brave: FEAR !FEAR ! FEAR FOR YOUR LIVES!!!? I AM YOUR FATHER!! Luke, I am your protector children!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99633 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99633
We the people do not consent to you authority! NO OR GET RECALLED
We the people do not consent to you authority! NO OR GET RECALLED
STAND UP VA! Recall NORTHAM and HERRING!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99634 Cnoden 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99634
Vaccines should always be a choice Vaccines should always be our choice, strengthening the immune system should be our first choice because if our immune system doesn't work properly we can't expect it to be able to fight off viruses and bacteria. The right Education is so important here.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.

99635 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99635
ABSOLUTELY NOT!!!!!! This is ridiculous and an over-stepping of governmental power. Let the people choose for themselves. This is AMERICA!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99636 Unknown 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99636
BREAKING HIPPA CODES/LAWS IS NOT GOOD! NO_NO_and more NO!!! This is ridiculous and an over-stepping of governmental power. Let the people choose for themselves. This is AMERICA!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The Health Insurance Portability and Accountability Act (HIPAA) applies to "covered entities" and "business associates," and in most cases does not apply to employers. Accordingly, the patient privacy protections contained in HIPAA do not apply to employers who ask employees if they have received the COVID-19 vaccine and are fully vaccinated or require employees to show proof of full vaccination. For further information on HIPAA see: https://www.hhs.gov/hipaa/for-individuals/employers-health-information-workplace/index.html

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99637 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99637
Vote NO to abuse of power with expanding restrictions If the CDC's stance is that vaccinated people do not have to wear masks then why is Virginia moving backwards? This is no longer about science but about politics, and is now absolute madness. Our motto, Sic Semper Tyrannis, thus always to tyrants, explains how VA responds to abuse of power by politicians. WE THE PEOPLE have the power to tell our government how to function, and expanding COVID restrictions indefinitely is an abuse of power.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The CDC updated their guidance on July 27, 2021 (fully vaccinated people should wear face masks indoors). https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

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99638 Anonymous 7/26/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99638
We need to return to freedom Covid is not the plague. The death rates have been inflated since day one. We need no permanent laws dealing with this, it will pass just like all others that have come and gone before. It wouldn't even have been an issue if it wasn't a planned release from a lab to help support the left gain power in as much of the world as possible. Vaccinations, wearing of masks and such should be a personal choice, not one forced upon people by governments state or federal that are trying to push us into some form of Socialism.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99639 Concerned Virginia Citizen 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99639
This is egregious government overreach! I implore you to end this egregious government overreach that has already unduly overburdened businesses!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99640 Anonymous 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99640
Vaccines are always a choice mandatory vaccines is unconstitutional! I has always and should always be the person's choice, even more so when they are NOT FDA approved!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99641 Anonymous 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99641
Government Overreach This is government over reach! We will peacefully resist!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371

SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99642 Anonymous 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99642
No more restrictions No more restrictions let everyone make a decision for themselves. What gives you the right to force your choices on us.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99643 Virginian 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99643
NO!!! We the People say NO!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99644 zzzzzzzzzzzz 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99644
VOTE NO. " Keep your Marxist ideals out of my Freedoms.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99645 Billy Duffy, President and owner of Duffy's repair Service, Inc Duffy's repair Service, Inc
7/27/2021 https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99645
Making the Emergency Temporary Standards Permanent. It is my opinion that since Governor Northam lifted the state of emergency, the ETS should also be lifted. I think we should only be required to follow the CDC guidelines. The ETS has been a burden on my small business financially and at this stage of the pandemic I think we should only have to follow the CDC guidelines. Additional restrictions and burdens will only be counter productive in my financial recovery.
With employee vaccinations I do not feel the ETS is still necessary.

SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99646 Ruby, RN 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99646
masks don't work Masks do not work because any face covering is considered a mask. They are not equal. There are microscopic holes even in surgical masks that viruses, that are much small than those microscopic holes can go through. There are treatments for COVID that need to be utilized instead of being stopped by big pharma and the government. We The People have RIGHTS!! I am a grown adult and can make my own choices. I don't need the government to make decisions for me, that is called dictatorship!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99647 Anonymous 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99647
TyrannyThe Govts attempt to "slow the spread" has done just that. The economic depravity endured by LOCAL businesses is already irreparable. The mental health pandemic is the next wave on the back side, which will be far more elusive than any physical virus. "Slowing the spread" has resulted in unfathomable consequences that will ripple through society for years to come. Mother nature is displeased with our stewardship and is exacting her might. We are the parasite and the planet is attempting equilibrium. Its time to get busy living again and stop being afraid to die over something that us puny humans have no control over...A virus will have its way regardless. Northam and his cronies are fossils and are grasping at the last vestiges of their control...Our elected officials should be ashamed as they do not represent the people they were elected to represent...One sided, double standard, pedantic, obsequious, pandering peons. Step out or get stepped on

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99648 David 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99648
No more restrictions We need less government. Businesses should have freedom to choose how they want to run their Businesses. This is abuse of government power.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371

SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99649 T Price 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99649
Government Overreach This is pure and simple government overreach. Businesses are fully capable of determining the best course of action for themselves. Government efforts to insert itself are efforts to destroy liberty and freedom for the masses while the govt. expands and accumulates more centralized control and power. A more effective use of taxpayer funds would have been to thoroughly investigate any/all Virginia bio-labs to access their safety protocols.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99650 Unknown 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99650
VACCINES ALWAYS A PERSONAL CHOICE_VIOLATIONS OF NURENBURG CODES " This to even get ON A RADAR for a State in our United States just says HOW FAR down the State of Virginia has gone in terms of supporting our business owner's within the state, and a persons' on PRIVATE CHOICE to choose or not to choose taking a Vaccines.

The judgment by the war crimes tribunal at Nuremberg laid down 10 standards to which physicians must conform when carrying out experiments on human subjects in a new code that is now accepted worldwide.

This judgment established a new standard of ethical medical behavior for the post World War II human rights era. Amongst other requirements, this document enunciates the requirement of voluntary informed consent of the human subject. The principle of voluntary informed consent protects the right of the individual to control his own body.

This code also recognizes that the risk must be weighed against the expected benefit, and that unnecessary pain and suffering must be avoided.

This code recognizes that doctors should avoid actions that injure human patients.

The principles established by this code for medical practice now have been extened into general codes of medical ethics.

There are no proven clinical trials on these vaccines- it's EXPERIMENTAL!!!!
You will all be thrown in the camps/prisons if this is approved and passed- Think about what you are doing up there in Richmond, VA folks!! It's so absurd or incongruous as to be laughable. synonym: foolish! So READ the below link!!! The Nuremberg Code (cirp.org)

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
SEE RESPONSE TO COMMENT 99484

The standard does not require employees to be vaccinated.

99652 Sam Brillant 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99652
Why don't we follow the science None of the proposed regulations are backed by any real scientific evidence. We know the masks have little or no effect on the spread of the virus. The regulation also states that there is no proof that prior exposure to the virus prevents future infection which is easily proven to be false in several studies. Natural antibodies have been shown to be at least as effective as the vaccines and possibly even more effective. This is nothing more than trying to use the regulatory process to get around existing laws because the governor is well aware that even with Democratic control of the legislature none of this would be passed into law. I expect a court challenge on day one and if it gets to the Supreme Court the state will lose.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The constitutionality of the VOSH Standard was challenged in Richmond Circuit Court and upheld (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Order Granting Motion to Dismiss, March 4, 2021). The case is on appeal to the Virginia Court of Appeals (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Notice of Appeal, March 31, 2021).

99653 Gordon G 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99653
follow science. Mask do nothing to protect you or someone else. Lock downs do not work and do more harm than any good.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99654 John 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99654
Masks were not legal now mandatory? Masks don't prevent the spread of the virus. The pours between the thread are too wide. Why do we not use science? A virus going through a mask is equal to a gnat going through a hole the size of the moon! Why are we even debating this? Read the experts paper on the WHO site. Dr. Juan Juranitis. DeaTH RATE OF THIS VIRUS IS TOO LOW TO WORRY ABOUT!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99655 Virginia Resident 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99655
Stop The Corruption These proposed changes are unconstitutional. It will ruin not only lives, but businesses. People's livelihoods are at stake with these proposed changes. The money it will cost for businesses to implement these changes is beyond reason. The demands that the 'powers that be' in the state of Virginia have over stepped their boundaries. I think many have forgotten THEY work for US, WE the PEOPLE! We refuse to be dependent on the teat of government, for the government to take care of us from cradle to grave. THAT is NOT what our nation was founded on, it is NOT how we intend to live our lives and prosper. No one can prosper under these changes except for the elite. I and my family are against these proposed changes. Stop the corruption.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
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99656 anonymous 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99656Revolt the time is NOW
We do not consent... you will have a major revolt on your hands!!!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99657 Debbie Berkowitz, National Employment Law Project National Employment Law Project
7/27/2021 https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99657
We support adoption of final permanent standard with certain recommended changes
The National Employment Law Project (NELP) submits the following comments in support of the final adoption of the proposed Final Permanent Standard for COVID-19 adopted by the Virginia Safety and Health Codes Board on June 29, 2021, with certain recommended changes proposed below.

NELP is a non-profit law and policy organization with 50 years of experience providing research, advocacy, and public education to advance the employment and labor rights of the nation's workers. NELP seeks to ensure that all employees, and especially the most vulnerable ones, receive the full protection of employment laws, including health and safety protections. NELP's Worker Health & Safety Program Director, Deborah Berkowitz, is a former OSHA official and an expert in OSHA enforcement and

health and safety standards. NELP works with unions in Virginia, as well as community and worker rights organizations such as the Virginia Legal Aid Justice Center, to improve worker safety.

NELP supports the adoption by the Board of the recently promulgated Federal OSHA ETS for the health care industry. We also strongly support the Board's recommendation that if this Federal ETS is stayed, or otherwise revoked or repealed or declared unenforceable, then the Virginia Final permanent standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19 shall immediately apply to all such health care employers. There should be no debate about this at all. The workers in health care industry covered by the ETS face among the highest risk of exposure to COVID and must be protected.

NELP urges the board to adopt the Final Permanent Standard for COVID-19 with the following proposed changes:

Section 10: We support the proposed amendments adopted by the board in section 16VAC25-220-10.E (which maintains the current language) and oppose the substitute language proposed in the July 1, 2021 Notice. First, a great deal of the CDC language is weaker than what is contained in the Final Permanent standard. Further, the substitute language would allow employers to avoid compliance with the standard, and to meet their obligations by simply considering protecting workers. That is because CDC guidance is written as suggestions. The CDC guidance actually states that employers only have to consider their recommendations—the employer does not actually have to implement the recommendations. For example, the CDC recommendations to the meat and poultry industry say they should consider implementing their recommendations" if possible." Thus an employer is in compliance—in actual compliance—if they only consider providing protections. They don't actually have to do anything. We support the current language that states that to the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigateSARS-CoV-2 virus and COVID-19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendations provides equivalent or greater protection than provisions of this standard, the employer's actions shall be considered in compliance with the related provisions of this standard.

Section 40: We urge the board to reject the language in Section 16VAC25-220-40.A. We oppose this amendment to Section 40 because it allows employers to avoid compliance with the standards requirements if they self-declare that they have a policy in place to receive and address complaints by employees of violations. Employers should not be relieved of their legal obligation to comply with the mandatory requirements of the standard simply because they have a policy that resolves complaints. We strongly urge the board to restore the original language such that it reads: Employers shall ensure compliance with the requirements in this section to protect employees in all exposure risk levels from workplace exposure to the SARS-CoV-2 virus that causes the COVID-19 disease.

Section 60: B: Engineering Controls 3: We recommend a small amendment to this section, 16VAC25-220-60.B, that adds language to define the "appropriate use of barriers" in food processing plants.
This section addresses risks to workers in food processing plants and ends with this line: "Employers shall ensure proper spacing of employee who are not fully vaccinated or otherwise at-risk employees (or if not possible, appropriate use of barriers)." This language was taken from Federal OSHA's new updated COVID 19 guidance, but the board omitted the definition of 'appropriate use of barriers.' We urge the board to add the following language to this section from the same updated guidance issued by Federal OSHA-that states: "Barriers should block face-to-face pathways between individuals in order to prevent direct transmission of respiratory droplets, and any openings should be placed at the bottom and made as small as possible. The posture (sitting or standing) of users and the safety of the work

environment should be considered when designing and installing barriers, as should the need for enhanced ventilation.
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

The language in the 16VAC25-220-40.A the commenter is referring to is as follows:

> A. Employers shall have a policy in place to ensure compliance with the requirements in this section to protect employees from workplace exposure to the SARS-CoV-2 virus that causes the COVID-19 disease. Such policy shall have a method to receive anonymous complaints of violations. An employer that enforces its policy in good faith and resolves filed complaints shall be considered in compliance with this subsection.

Please note that the underlined language above only refers to "subsection" 16VAC25-220-40.A – it does not apply to any other requirements in the standard.

With regard to the language on "barriers" that the commenter requests adding to 16VAC25-220-60.B, uses nonmandatory "should" language, which is only advisory in nature and not enforceable in its current form.

99658 Joshua Johnson 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99658
Vaccines protect the vaccinated...if not, then mandate is useless "We have been told that a fully vaccinated person cannot be symptomatic or transmit the Covid-19 virus. We have been told the vaccines are 99% effective. If, fully vaccinated people are now becoming infected with the coronavirus, then in fact the vaccines are not as effective as we have been lead to believe, and a mandate is absurd, ineffective, divisive, and contrary to human rights, individual liberty, bodily autonomy, and public policy.

To take or not to take the vaccine is a personal risk decision, particularly if they are not effective. There are less invasive and more effective prophylactic and therapeutic methods of combatting the virus.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The commenter appears to be confused about vaccine effectiveness levels - there has been no such report of a vaccine that is 99% effective.

99659 Tara Eveland, Freedom Keeper 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99659
The Mark of the Beast system is being implemented. A warning for Christians. "The Lord is coming soon. Read my full thoughts here on my blog. Don't take their vx and don't put the mask back on! "
SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.

99660 Brittany 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99660
Freedom of Control NO. No more control. No more fear enforced by government and media.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99661 April 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99661
Stop govenrment overreach This is unconstitutional. Stop government overreach. Leave these decisions to the employers. This is unconstitutional.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The constitutionality of the VOSH Standard was challenged in Richmond Circuit Court and upheld (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Order Granting Motion to Dismiss, March 4, 2021). The case is on appeal to the Virginia Court of Appeals (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Notice of Appeal, March 31, 2021).

99662 The Holland Family 7/27/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99662
This is absolute insanity? NO! This has to stop. This is tyranny. This cannot be tolerated. I beg of you to stop this madness. The true science and data doesn't warrant any of this! We have highly effective treatments! We know how to protect the vulnerable. We cannot continue to place unnecessary burdens on businesses. This is beyond infuriating!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99663 Anonymous 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99663
Too much regulation & restriction kills our spirit & our way of life. More Businesses will die, too Too much regulation & restriction kills our spirit & our way of life. More Businesses will die, too

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99664 Stop the Insanity 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99664

This is Authoritarian control and it MUST STOP! We the people can make our own health decisions and we refuse to be herded like sheep. NO MORE COVID RESTRICTIONS ANY LONGER ARE NEEDED. Is that clear enough? Do you understand? Lift all restrictions NOW and let us get back to our lives. The SCIENCE AND DATA do NOT support continued restrictions. This is a pure authoritarian power grab and has nothing to do with health! We will not comply.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99665 Unhappy Virginian 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99665

Two weeks to slow the spread? I strongly oppose these authoritarian measures continuing permanently. It reeks of political power grabbing. You elected officials work for we the people. Small businesses have suffered the brunt while large box stores had a record year. Long term masking has conflicting evidence behind it. It is heinous to even suggest a medical product as new or questionable as the covid vaccine be mandated for ANYONE. What forced medical procedure is next? What ever happened to my body my choice? I'm disappointed in those running Virginia.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99666 Anonymous 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99666

Repeal the FPS The standard needs to be terminated. This can in no way keep up with the science. (and at least one board member ranted about following the science on one of the electronic meetings).
The standard is overly burdensome for small businesses that are already struggling.
The standard encourages dishonesty. Employers are encouraged to lie in order to have to do less to comply. Employees are encouraged to lie so they aren't discriminated against. They are also encouraged to lie so they don't lose weeks worth of pay that they can't afford.
The state of emergency is over. Since or Governor also says we are following the science and the science says we don't need a state of emergency, then we don't need the FPS.

Perception is reality. It seems that from reading through the comments that the perception of many is that keeping this standard is just a power move. It is also a way to cause businesses to have to shut down. I am sure that DOLI and the Board will say that is not the case but again, it is the perception. DOLI and the Board are perceived to be pushing vaccination on employees in Virginia. That would be fine if all of these people were proven scientists that can verify that there will be no adverse affects to anyone from the vaccine but none of these people fit that description.
The electronic meetings make a mockery of this process. Board members do not treat each other with respect and several members like to make it well known that they don't like it when someone disagrees with their POV. The number of sighs and groans from board members who forget to mute themselves is utterly ridiculous. The best was when Ms. Jolly blurted out an expletive in response to a board member she disagreed with, or should we call that the worst. In listening to all of the meetings it seems like Ms. Jolly is just on the board to try to boost her consultation business and not really there for a meaningful reason. (just my perception)
Where is the documentation that justifies continuing the FPS? Please do not point to any mainstream new outlet. Let's see actual published scientific documentation. Why do we only hear from Mr. Withrow. (Often Mr. Withrow seems to be mocking board members and public commenters) What about the DOLI staff that actually have health and safety knowledge? What about the staff that see the struggles that employees and employers alike are going through? Where are the independent experts that can verify the need to continue the standard?
Here is another big question; why does DOLI make it so hard to find out when these meetings and comment periods are happening? Posting notices at the last minute and hiding them on separate pages make it very hard for an average person to see what is going on. The perception here is that DOLI wants to have as little comment and interaction from the public as possible. That way they can just push through their own agenda.
I know that none of these comments are going to make a difference. Mr. Withrow will minimize most of them and say how the commenters don't understand what they are talking about because they still refer to the standard as the ETS. Many of the board members will also disregard the comments and even the employees that they are supposed to be representing just because they want to prove how right that their opinion is. At the end of the day employees like myself will be stuck following pointless restrictions that our employers are forced to enact upon us. That is unless I decide that I can just lie everyday so I don't have to do as much.
Repeal the standard. The amendments are garbage and will only cause discord and chaos in the workplace."

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
Commenters can sign up on the Virginia Regulatory Townhall to receive notices about upcoming Board activities at: https://townhall.virginia.gov/L/Register.cfm

99667 Anonymous 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99667
Absolutely NO! We all see through the lies now. End these restrictions on our liberty NOW! We have treatments, we know the real data, time to stop with the propoganda/fake narrative.

SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99668 Ignore Unlawful Orders 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99668
Sic Semper Tyrannus. The wicked flee when none pursue.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99669 Ruth Meredith 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99669
The FPS needs to be completely repealed not just amended. I'm sure Virginia thought they were doing a good thing to protect workers in the food processing sector when they put this document together, but it is over burdensome for small business owners.
Emergency authorization has been granted to biologic products that offer some protection against the covid 19 disease symptoms and are free to anyone that wants to get it.
There is no reason for Virginia Businesses to be underneath this authoritarian guideline and it needs to be removed completely from the books, not just amended to create further division between those that took the shot and those that did not.
There are prophylatics and theraputics out there for each individual to care for their own health, personally. We do not need a nanny-state telling us how we can live our lives.
{one of the least talked about prophylatics is bee propolis. Here is a recent scientific article how it can help. The Importance of Propolis in Combating COVID 19}

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

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99670 Robyn Middleton Lieutenant Colonel (retired)
U.S. Air Force Medical Service Corps 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99670
Revoke the FPS.I agree with the Virginia Department of Labor and Industry's Division of Legal Support to REVOKE the FPS. The justification to revoke is well-articulated here:
https://www.doli.virginia.gov/wp-content/uploads/2021/07/NRWC-Committee-Comments-on-Final-Permanent-Standard-Proposed-Amendments.pdf

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377

SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99671 "Philip Boykin
President & CEO, Virginia Beer Wholesalers Association" Virginia Beer Wholesalers Association
7/28/2021 https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99671
Request to Repeal the FPS
Dear Chairwoman Rodriguez:

On behalf of the Virginia Beer Wholesalers Association (VBWA), I provide the following comment on proposed amendments to the Final Permanent Standard (FPS) and respectfully request a full repeal of the FPS. If the Board is unable to support a full repeal of the FPS, the Board should, at a minimum, adopt Governor Northam's substitute language for 16VAC25-220-10(E) to allow more flexibility for compliance with the FPS.

Since the beginning of the pandemic, VBWA members and their employees have gone above and beyond the call to ensure safe distribution of beer to the Commonwealth's restaurants, grocery stores, and convenience stores. VBWA members have worked extremely hard to monitor and comply with the myriad of guidance, rules, regulations, and executive orders since the beginning of the pandemic. Beer distributors also have a significant business incentive to continue safe practices as our employees and customers rely on us.

The majority of our employees are now vaccinated against COVID-19. VBWA Members and their employees continue to stay apprised of and follow CDC guidelines. Fortunately, and as a result, instances of workplace spread amongst our member companies are virtually non-existent. As such, the FPS is not necessary to protect the health and safety of our workforce and serves as an unnecessary burden of compliance for our members.

Secondly, in an appreciated attempt to be flexible, the FPS deems an employer compliant with the standard provided it actually complies with CDC guidelines. However, the qualification that the CDC guidance must provide equivalent or greater protection than the FPS essentially eliminates any flexibility this provision was designed to provide. Furthermore, it begs the question of who determines the level of protection in CDC guidance versus the level of protection provided by the FPS.

Although DOLI continues to update its Frequently Asked Questions in accordance with CDC guidelines, the black letter of the regulation requiring that the CDC guidance provide at least equivalent protection remains the same. As soon as CDC guidance changes to provide less protection than the FPS, Virginia businesses are stuck complying with overly strict and unnecessary restrictions.

Accordingly, the VBWA respectfully requests that the Board repeal the FPS. The FPS is inflexible and unable to account for the changing dynamic of the virus and the CDC recommendations that follow. In the alternative, the Board should adopt Governor Northam's proposed amendment that an employer's actual compliance with applicable CDC guidelines shall be considered compliance with the FPS.

Thank you for your consideration, and should you have any questions or if the VBWA may be of further assistance, please do not hesitate to contact me."

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The VOSH Standard specifically states in 16VAC25-220-10.E that: The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.

Description of how DOLI and VDH apply 16VAC25-220-10.E.

16VAC25-220-10.E provides:

> E. To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 virus and COVID19 disease related hazards or job tasks addressed by this standard, and provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard, the employer's actions shall be considered in compliance with this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by a provision of this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard. The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines. (Emphasis added).

The intent of 10.E is to give employers the option to either comply with the requirements of the VOSH Standard or demonstrate as an alternative that they have complied with recommendations in a CDC publication addressing hazards, issues, requirements, etc., that are also addressed in a specific provision of the VOSH Standard.
In order for an employer to take advantage of 10.E, it has to demonstrate that it is complying with language in CDC publications that could be considered both “mandatory” (e.g., “shall”, “will”, etc.) and “non-mandatory” (“it is recommended that”, “should”, “may”, "encouraged", etc.). In other words, an employer would have to comply with a CDC “recommended” practice even if the CDC publication doesn't “require” it.

The Department’s interpretation of 10.E and language in CDC publications will otherwise follow normal rules of regulatory/statutory construction. For instance, if the CDC publication language offers options for an employer to address a hazard, issue, etc., that is also addressed by the VOSH Standard (e.g., the employer “should” do “this”, or “that”, or “the other”), then the employer is required to implement at least one of the options in order for §10.E to apply.

An employer will not be subject to citation or penalty if they comply with the requirements of the VOSH Standard, even if a CDC publication were to include a more stringent requirement or “recommendation” than is provided for in the VOSH Standard.

The VOSH Standard does not require employers to comply with any CDC publication language that is solely directed at assuring the safety and health of the general public. The focus of the VOSH Standard is employee safety and health, and the focus of §10.E is only CDC publications’ language that addresses employee safety and health, and occupationally-related hazards, issues, mitigation efforts, etc.
Here is an example of application of 10.E to language in Section 3 of the current CDC Guidance for Institutions of Higher Education (IHEs):

> "Administrators should encourage people who are not fully vaccinated and those who might need to take extra precautions to wear a mask consistently and correctly:
>
> > Indoors. Mask use is recommended for people who are not fully vaccinated including children.

Answer: The Department considers use of the phrases "Administrators should encourage" and "Mask use is recommended" to be non-mandatory language that must be actually complied with under 10.E to be considered to provide employees equivalent protection to a provision in the VOSH Standard. This means the phrases will be read as "Administrators shall require" and "Mask use is required." Accordingly, IHE employees who are not fully vaccinated must wear face coverings when so required under the VOSH Standard. IHE compliance with the CDC Guidance as interpreted by the Department above would provide employees equivalent protection to the VOSH Standard provisions regarding the wearing of face coverings in 16VAC25-220-40.F, -40.G, -40.H, -60.C.10, and -60.C.11.

99673 Jack Dyer 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99673

DOLI COVID Regulations

Dear Members of the Safety and Health Codes Board,

I write to you today in regards to the proposed changes to the COVID permanent workplace standards. We simply do not feel that permanent regulations are necessary for temporary measures required under emergency conditions or circumstances.

A person would think after more than a year of changes, missteps and wandering gyrations associated with this pandemic, how do you go about mandating permanent regulations for something you all cannot assess or figure out from one day to the next?

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99674 Another dissenter 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99674

Governor, DOLI and Safety and Health Codes Board Promote Racism. The title of my comment should be the next headline in the Richmond Times Dispatch.

The proposed amendments to the FPS greatly favor employees that have been vaccinated. A quick check of the VDH website shows that the vaccination count for white people out numbers the vaccination count of all other races listed by about 2 million vaccinations for each listed race.

So in reality what we have now is a new form of segregation and government approved racism. Way to go to everyone involved in the process to get these amendments pushed through. You should all be proud of yourselves. Undoing decades of struggle in one final VOSH standard. This was not something that I would have expected from all of the far left leaning people in positions of power.

Where is the out cry that would have come if a right leaning governor, board and department of labor had suggested this?

I can't wait to read about all the legal challenges that are submitted over this blatant act of racism. Save us all the trouble and repeal the FPS. Maybe then you can all save a little face and not seem as much of the racists that you are.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520

SEE RESPONSE TO COMMENT 99671

99675 Susan Campbell 7/28/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99675
Covid I think all Covid restrictions should be removed and WE THE PEOPLE have the freedom to decide what is best for us!

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99678 Anonymous 7/29/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99678
Strongly opposed!!!! I am strongly opposed to permanently maintaining these restrictions.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99679 David 7/29/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99679
Supplement and enhancement of VOSH laws. Page 4 section c
"Access to employee exposure and MEDICAL RECORDS"
Last time I checked its illegal for any person or entity to request access to a persons medical records??
Therefore vosh is in current violation of HIPAA laws
I'm genuinely curious as to why this stuff is being pushed over a virus with a 99.8% survival rate. "

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
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SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

HIPAA does not apply to occupational safety and health agencies such as the federal Occupational Safety and Health Administration (OSHA) and the Virginia Occupational Safety and Health (VOSH) program in its enforcement operations.

The Health Insurance Portability and Accountability Act (HIPAA) applies to “covered entities” and “business associates,” and in most cases does not apply to employers. Accordingly, the patient privacy protections contained in HIPAA do not apply to employers who ask employees if they have received the COVID-19 vaccine and are fully vaccinated or require employees to show proof of full vaccination. For

further information on HIPAA see: https://www.hhs.gov/hipaa/for-individuals/employers-health-information-workplace/index.html

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99680 Anonymous 7/29/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99680

No mandates It is completely absurd that we are even entertaining this. The government has zero business in the health care of citizens. You are overstepping by threatening to make these mandates permanent fixtures of Virginia's legislation. Are you going to mandate overweight people to lose the excess, or force people to quit smoking, or drinking? We see how well prohibition worked out right? Are we going to mandate eating clean, organic, healthy whole foods? No? Then you have ZERO RIGHT to try and implement these measures. This is America and we have freedoms. Your political agenda and the favors you owe up the chain of command are not our concern. That is not why you were appointed. You CAN NOT do this. The science does not support it, whatsoever.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99681 Sean T. Connaughton, President & CEO, Virginia Hospital & Healthcare Association sent Direct to DOLI also Virginia Hospital & Healthcare Association 7/29/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99681

Proposed Amendments to the Final Permanent Standard, Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220, as Adopted by the Virginia Safety and Health Codes Board on June 29, 2021."On behalf of the Virginia Hospital & Healthcare+D22 Association's ("VHHA") 26 member health systems, with more than 125,000 employees, thank you for the opportunity to comment on the Department of Labor and Industry's (the "Department") proposed amendments to the Final Standard regarding Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19 (hereafter referred to as the "Amended Regulations"). Since March 2020, Virginia's hospitals and health systems have been on the frontline treating patients infected with the COVID-19 virus and playing a leading role in the Commonwealth's response to the pandemic. Throughout these efforts, Virginia hospitals have remained steadfastly committed to our top priority – the safety of our patients, visitors, employees, and the communities we serve.

We continue to question whether adopting a permanent regulation specific to COVID-19 is necessary or appropriate. The Commonwealth will undoubtedly face other pandemics or public health threats from communicable disease that involve different safety precautions than those indicated for COVID-19. Accordingly, we believe that a more general standard that sets forth a high-level framework rather than disease-specific criteria should be considered for permanent regulations. For example, the permanent regulations could be simplified in a manner that recognizes the threat posed by COVID-19, but more generally provides a basic series of steps employers would undertake for any pandemic or communicable disease of public health threat (e.g., risk assessment, environmental and administrative controls, infection control plans). That is, the regulations need not be disease specific and could simply require best practices for disease infection and control that apply generally.

Additionally, regardless of whether a permanent standard is specific to COVID-19 or communicable disease more generally, its applicability and enforcement should be tied to an executive order or an order of public health emergency declaring a state of emergency due to a communicable disease of public health threat. Similarly, in the event of a few cases or a localized outbreak of a highly contagious disease that does not amount to public health emergency on a statewide basis, the regulations should

not be applicable to an employer located in an area where there are no cases and where there is not a recognized public health threat in the region.

Any regulations such as these should be limited in duration. As proposed, the Amended Regulations would remain in effect in perpetuity with no clear objective or measures by which they will be rescinded or revoked. The lack of a clear objective or measure for rescission of the Amended Regulations would lead to protracted uncertainty for employers making good faith efforts to comply with the Amended Regulations despite a foreseeable future with zero or minimal positive COVID-19 cases in the Commonwealth or only localized outbreaks.

While we applaud the Amended Regulations' deference to and conformity with the Occupational Safety and Health Administration's COVID-19 Emergency Temporary Standard (29 C.F.R. 1910.502 et seq.) (the "OSHA ETS"), we have concerns about the application of two different sets of COVID-19 workplace regulations to hospitals and health systems. The Amended Regulations at 16VAC25-220-10.B.1-4 provide that applications of nearly all of the Amended Regulations' requirements are suspended "where any employee provides healthcare services or healthcare support services" absent an intervening suspension, stay, invalidation by a state or federal court, revocation, repeal, declaration of unenforceability, or expiration of the OSHA ETS. 16VAC25-220-30 defines "healthcare support services" to mean "services that facilitate the provisions of healthcare services. Healthcare support services include [but are not limited to] patient intake/admission, patient food services, equipment and facility maintenance, housekeeping services, healthcare laundry services, medical waste handling services, and medical equipment cleaning/processing services." 16VAC25-220-50.A.6.f states that "[t]his section does not apply to the following… healthcare support services not performed in a healthcare setting (.e.g., off-site laundry, off-site medical billing)…"

Presumably, the intent of the Amended Regulations was to have the Amended Regulations apply to "off-site" healthcare support services and the OSHA ETS apply to "on-site" healthcare support services. This result would require hospitals, health systems, and other healthcare employers to implement two different regulatory schemes by attempting to determine what it means to be an "off-site" healthcare support service. Furthermore, employees providing "off-site" services who enter a facility that would be considered "on-site" would be required to follow different procedures than in their usual workplace and would also be subject to the training requirements within the Amended Regulations and the OSHA ETS – among other duplicative or conflicting requirements making implementation of the Amended Regulations onerous and complex.

Similar to "off-site" healthcare support services, employees in "well-defined hospital ambulatory care settings where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not present" (16VAC25-220-50.A.6.d.) are not subject to 16VAC25-220.50. As a result, employees within the same facility could find themselves subject to the Amended Regulations in one workspace but would be subject to the OSHA ETS by simply walking to another section of the same facility.

We respectfully request that the Amended Regulations eliminate the confusion this would cause employers and employees by amending 16VAC25-220-10.B.1-3 and 16VAC25-220-50.A.1-3. to state that the Amended Regulations do not apply to hospitals or health systems rather than adopting the OSHA ETS definitions of "healthcare services" and "healthcare support services." This would enable hospitals and health systems to develop employer-wide policies that are consistent among its work force and in compliance with the OSHA ETS in certain settings while adhering to the obligations placed on employers by the General Duty Clause of the OSH Act (29 U.S.C. § 654, 5(a)1) in settings not covered by the OSHA ETS. Hospital and health system employees would also have clear standards by which they are required to operate regardless of whether they happen to be "on-site," "off-site," or in a "well-defined hospital ambulatory care setting where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter those settings" throughout the workday.

In addition to these overarching concerns, there are several technical issues with the regulations that we have previously commented on and that should be considered in this and any future rulemaking:

As noted in our public comment on the permanent regulations, infection prevention and control is a daily, ongoing focus within Virginia hospitals and health systems. Operating under the oversight of the Centers for Disease Control and Prevention (CDC), the Centers for Medicare & Medicaid Services (CMS), the Virginia Department of Health (VDH), and various other accreditation and regulatory authorities, hospitals and our ancillary facilities are required to consistently demonstrate that their patients and staff receive and provide care in a safe environment. This includes development and implementation of comprehensive infection control plans, quality improvement programs, managing supply chain, training employees and caregivers, ensuring employees have the resources they need, planning for future health emergencies, and working with congregate care settings to institute strong infection control practices, among other activities.

In other words, infection prevention and control and ensuring the safety of our patients and employees are not a new focus for Virginia hospitals and health systems. They are ingrained components of our daily operations. Imposing new and separate regulatory requirements, many of which duplicate the policies and protocols already in place within our facilities, will unnecessarily result in burdensome new compliance costs without meaningfully improving our ongoing efforts to protect our patients and employees. Consequently, we recommend that Subsection E of § 10 – which states that an employer in compliance with CDC publications regarding COVID-19 will be considered in compliance with the standard/regulation – be amended to acknowledge these requirements and explicitly state that hospitals, health systems, and other facilities under their control that are in compliance with the broader industry standards set forth by state and federal health care regulatory entities are deemed in compliance with the permanent regulation and not subject to enforcement actions for failure to comply with any specific requirement under the permanent regulation that is already addressed in these broader industry standards.

Subsection B.5 of § 40 prohibits employers from permitting known or suspected COVID-19 employees or others to report to or be allowed to remain at work. While the intent of this prohibition is clear, as a practical matter it is problematic to require ongoing monitoring of all employees who may be experiencing symptoms that are not visible without examination or inquiry. Furthermore, it is difficult or impossible to enforce where the employee or other person does not physically report to a facility or building under the surveillance and control of the employer as distinct from a teleworking arrangement. To address this, the prohibition could be limited to not "knowingly" permitting the employee to report to or be allowed to remain at work. Alternatively, the prohibition could be limited to those employees who report COVID-19 to the employer under Subsection B.3 of § 40.

The requirement in Subsection B.7 of § 40 is unnecessary and inappropriate to impose on employers. Those subcontractors and companies that provide contract or temporary employees are presumably subject to these regulations by virtue of being an employer in their own right and an upstream employer should not bear this burden. Furthermore, such encouragement is more appropriate coming from the Department.

Subsection B.7. of § 40 requires employers to notify their employees within 24 hours if an employee, subcontractor, contractor, temporary employee, or other person who was present at the place of employment within the previous 14 days tests positive for COVID-19. This requirement poses a challenge for hospitals. Given the inherently higher risk of exposure in the health care setting, notifying every employee of a hospital or health system each time an employee tests positive will require an unreasonable level of ongoing notification. Even assuming a blast e-mail or similar broad communication meets the requirement, notifying every employee – clinical or non-clinical – upon a positive test of essentially anyone entering the facility within "2 days prior to symptom onset (or positive test if the employee is asymptomatic) until 10 days after onset (or positive test)" is unrealistic and could have Health Insurance Portability and Accountability Act (HIPAA) privacy implications.

In addition to our previous comments, several of the changes to the permanent regulations present new technical issues that we believe should be addressed in this and any future rulemakings:

Subsection C. of § 40 requires employers to "immediately remove" employees from a worksite if the employee has suspected or confirmed to have COVID-19. "Immediate removal" of an employee from a worksite may not be feasible in some circumstances. To address this issue, removal could be "immediately or, if circumstances present a danger to the employee or others, as soon as practicable."

Subsection C.1. of § 50 require employers, to the extent feasible, to prescreen or survey each covered employee to verify the employee does not have signs or symptoms of COVID-19 prior to the commencement of each work shift. However, the Amended Regulations do not clearly define what it means to "prescreen or survey" each employee. The OSHA ETS resolves this ambiguity by defining "screen" to mean "asking questions to determine whether a person is COVID-19 positive or has symptoms of COVID-19." (29 C.F.R. 1910(b)) The OSHA ETS further addresses patient screening and management (29 C.F.R. 1910(d)) as well as employee screening (29 C.F.R. 1910(l)). Therefore, we recommend mirroring these sections of the OSHA ETS in the Amended Regulations to avoid any confusion regarding the required processes. Similarly, this recommendation would resolve the ambiguous use of "screen" in 16VAC25-220-50.A.6.c-e.

In closing, while COVID-19 may be the first pandemic in recent years to broadly impact the Commonwealth, Virginia's hospitals and health systems deal with issues surrounding infection prevention and control, patient and workforce safety, and employee wellness on a daily basis. We have long-established policies and protocols governing these aspects of our operations and work closely with a variety of regulatory authorities to promote a safe care environment for our patients and our employees. Our utmost priority always has been and always will be the safety of our patients, visitors, employees, and the communities we serve.

The potential confusion surrounding whether the Amended Regulations or OSHA ETS apply to a workplace – or even to specific areas within a facility – as well as additional and duplicative requirements are unnecessary for hospitals and health systems and will have numerous burdensome and costly implications for them. Furthermore, the permanent regulations contain ambiguities that open hospitals and health systems to an uncertain and/or inconsistent interpretations by Department officials despite good faith efforts of hospitals and health systems to comply. We also continue to question whether the permanent regulation should be specific to COVID-19 and believe that any such regulation should only be in effect for the duration of the public health emergency or, at a minimum, contain an objective standard by which any such regulation would no longer be in effect.

Thank you again for the opportunity to comment on the permanent regulation. Please do not hesitate to contact Brent Rawlings (brawlings@vhha.com, 804-965-1228) or me at your convenience if we can provide any additional information regarding our suggested modifications.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
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SEE RESPONSE TO COMMENT 99671
SEE RESPONSE TO COMMENT 10013

The Department notes that as of August 18, 2021, healthcare worker cases in Virginia totaled 32,001, with 952 hospitalizations and 59 deaths. https://www.vdh.virginia.gov/coronavirus/covid-19-in-virginia/covid-19-in-virginia-demographics/

The commenter is correct that where the OSHA ETS does not apply to the healthcare services and healthcare support systems, 16VAC25-220 applies. The Department notes that it is not uncommon for

employers to have to deal with different occupational safety and health standards and regulations depending on the workplaces involved and the hazards present. 16VAC25-220-10.C recognizes this:
C. This standard is designed to supplement and enhance existing VOSH laws, rules, regulations, and standards applicable directly or indirectly to SARS-CoV-2 virus or COVID-19 disease related hazards such as, but not limited to, those dealing with personal protective equipment, respiratory protective equipment, sanitation, access to employee exposure and medical records, occupational exposure to hazardous chemicals in laboratories, hazard communication, Va. Code §40.1-51.A, etc.
There are many businesses that have departments/divisions that must operate under different OSHA regulations even though the hazard presented is the same (e.g., companies that have two different departments/divisions that have employees exposed to electrical hazards but must either conform to the General Industry or Construction Industry electrical regulations contained in Part 1910.301, et seq. and Part 1926.400 et seq.)
In addition, the Department notes that in a number of respects, the OSHA ETS contains provisions that could be considered to be more stringent (i.e. more protective of employees) than corresponding requirements in 16VAC25-220. There is no prohibition against an employer from choosing to comply more stringent regulatory requirements to protect its employees.

With regard to the situation raised by the commenter, such employers can apply the requirements of the OSHA ETS to healthcare support services not performed in a healthcare setting (e.g., off-site laundry, off-site medical billing), and employees in well-defined hospital ambulatory care settings where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not present, without running afoul of the overwhelming majority of the provisions in 16VAC25-220. The one exception that the Department has identified are the notification provisions in 16VAC25-220-40.B.7, which would still have to be complied with.
Finally, following is a summary of the VOSH policy on de minimis violations from the VOSH Field Operations Manual:

5. De Minimis Violation Policy.

> Va. Code §40.1-49.4.A.2 provides “The Commissioner may prescribe procedures for calling to the employer's attention de minimis violations which have no direct or immediate relationship to safety and health.”
>
> The Virginia Occupational Safety and Health (VOSH) Field Operations Manual (FOM) describes the Commissioner’s procedures for de minimis violations in Chapter 10, pp. 38-39:
>
> De minimis violations are violations of standards which have no direct or immediate relationship to safety or health. Compliance Officers identifying de minimis violations of a VOSH standard shall not issue a citation for that violation, but should verbally notify the employer and make a note of the situation in the inspection case file. The criteria for classifying a violation as de minimis are as follows:
> ….
> 3. Employer Technically Exceeds Standard.
>
> An employer’s workplace is at the “state of the art” which is technically beyond the requirements of the applicable standard and provides equivalent or more effective employee safety or health protection.
>
> Note: Maximum professional discretion must be exercised in determining the point at which noncompliance with a standard constitutes a de minimis violation.

The VOSH FOM further provides:

> The Compliance Officer shall discuss all conditions noted during the walkaround considered to be de minimis, indicating that such conditions are subject to review by the Regional Safety or Health Director in the same manner as apparent violations but, if finally classified as de minimis, will not be included on the citation.

With regard to the commenter's concern about 16VAC25-220-40.B.5 (prohibits employers from permitting known or suspected COVID-19 employees or others to report to or be allowed to remain at work), a prerequisite for the issuance of a VOSH violation is a demonstration that the employer knew or should have known of the violation. Accordingly, no change to the wording of the provision to include the word "knowingly" is needed.

With regard to the commenter's concern about 16VAC25-220-40.B.7 dealing with issues of contractors and temporary employees, OSHA and VOSH have longstanding policies addressing the respective responsibilities of employers, subcontractors and temporary employment agencies in a multi-employer situation. The referenced section is consistent with those policies. See 16VAC25-60-260.F and G for VOSH multi-employer worksite regulation.
https://law.lis.virginia.gov/admincode/title16/agency25/chapter60/section260

See DOLI §10, FAQ 12 for a discussion of host employer and temporary employment agency responsibilities. https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

With regard to the commenter's concern about 16VAC25-220-40.B.7 dealing with notification of employees, the intent of the notification requirement is to provide employees information of a possible exposure so that employees can make decisions for themselves on the appropriate course of action to take. The requirement can be satisfied by a blast email. The referenced provision specifically is qualified by the phrase "To the extent permitted by law, including HIPAA." A blast email to employees would satisfy the requirement and the provision does not require providing identifying information about the infected employee.

With regard to the commenter's concern about 16VAC25-220-40.C about the phrase "immediate removal" and the possibility of an emergency or danger to others interfering with the ability to comply, the Department has a longstanding policy of considering exigent circumstances, such as emergencies or dangerous situations, in assessing whether violations of VOSH standards will or will not be cited. Accordingly, not special language is needed to address the commenter's concern. See VOSH Field Operations Manual (FOM), Chapter 8.A.6, Emergency Situations, and 8.B, Voluntary Rescue Operations Performed by Employees.
https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\181\GDoc_DOLI_5354_v8.pdf

With regard to the commenter's concern about 16VAC25-220-50.C 1., that provision provides "Prior to the commencement of each work shift, prescreening or surveying shall be required to verify each covered employee does not have signs or symptoms of COVID-19. The use of the word "surveying" encompasses the commenter's request to define screening as “asking questions to determine whether a person is COVID-19 positive or has symptoms of COVID-19.

99682 Anonymous 7/29/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99682
FPS comments "Hello Members of the Safety and Health Codes Board,

I work for a large municipal organization, and have played a key role in developing, designing, and implementing our COVID response in compliance with the temporary standard, and then the Final permanent standard. Trying to get 15,000 employees across 50+ agencies all into compliance with every aspect of the FPS has been a full time job, which was made more complicated by the conflicting information that was coming out from the various regulatory and health bodies. Our Health Dept was following the science of the CDC, while we were responsible for informing and reminding that the final permanent standard was the law we must adhere to, or risk fines.

The most difficult part of that was that the science changed much more often, the guidance from the CDC was updated often, whereas the FPS, as you know, must go through a much lengthier process to make changes and amendments. It became harder and harder to tell employees they must comply with laws that did not match the science, but the law was the law. In some instances where employees would refuse to comply, it led to employees being terminated for non-compliance. At a time when people needed jobs the most, ours were losing their jobs because the law did not match the science, and we were, and are, bound by the law.

It is for these reasons, and the reality that the science changes much more rapidly than the law can keep up, that I urge the board to adopt new language that clearly mandates the FPS mirror the guidance of the CDC, or that the FPS be rescinded altogether. This will give employers the agility they need to meet the demands of a rapidly changing situation.

Thank you for your time and consideration.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99684 M. Clark Barrineau, Asst VP of Govt Affairs & Public Policy sent Direct to DOLI also The Medical Society of Virginia 7/29/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99684
Request to Repeal the FPS
I am writing as Assistant Vice President of Government Affairs and Public Policy for the Medical Society of Virginia (MSV) to respectfully comment on the Final Permanent Standard (FPS) and to request a repeal of that standard. If the Board is unable to support a full repeal of the FPS, the Board should, at a minimum, adopt Governor Northam's substitute language for 16VAC25-220-10(E) to allow moe flexibility for compliance with the FPS.

MSV is grateful for the many hours of work the Safety and Health Codes Board has devoted to this issue over last year. This is a complicated virus, and the Board's work has been admirable.

Since the beginning of the outbreak, physicians have served on the front lines of the pandemic. MSV members and their staffs have answered the call to provide for testing, diagnosis, and treatment of COVID-19. We have also led the charge on vaccinations, leading to a significant curb in the infection rate.

Even though cases and community spread are down significantly right now, the health care community remains vigilant.as new variants enter the community. As such, CDC guidelines and the OSHA ETS mandate continued distancing, capacity, and PPE guidelines for health care settings.

Unfortunately, the FPS is unable to account for the changing dynamic of the virus and the chnging recommendations from the CDC. For example, language in the FPS that deems compliance with the FPS

if the employer complies with CDC guidelines is qualified with the requirement that CDC guidance provide equivalent or greater protection than the FPS. This qualification essentially eliminates any flexibility this provision was designed to provide. It also raises the question of who determines the level of protection in CDC guidance versus the level of protection provided by the FPS.
Recognizing this, DOLI continues to update its Frequently Asked Questions in accordance with CDC guidelines. While the clarification in the FAQs is appreciated, our concern is that a court would still lean on the strict qualifying language in the FPS itself rather than information in the FAQs.
Accordingly, the MSV respectfully requests the Board repeal the FPSIn the alternative, the Board should adopt Governor Northam's substitute language that an employer's actual compliance with CDC guidance shall be considered compliance with the FPS. Thank you for your consideration and should you have any questions or if the MSV may be of further assistance, please do not hesitate to contact me.

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The Department notes that as of August 18, 2021, healthcare worker cases in Virginia totaled 32,001, with 952 hospitalizations and 59 deaths. https://www.vdh.virginia.gov/coronavirus/covid-19-in-virginia/covid-19-in-virginia-demographics/

99685 "Stephanie Peters, CAE
President & CEO
Virginia Society of CPAs" Virginia Society of CPAs 7/29/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99685
Comments on Final Permanent Standard (FPS)
Dear Commissioner Davenport:

On behalf of the more than 13,000 members of the Virginia Society of CPAs (VSCPA), the VSCPA Executive Committee is writing to comment on the Final Permanent Standard (FPS) for Infectious Disease Prevention of the SARS-CoV-2 Virus. We request revocation.

The VSCPA appreciates the attention and careful consideration the Safety and Health Codes Board has devoted to this issue over the past year and a half. CPAs in public practice, as well as those in private industry and government roles, quickly pivoted and adapted their business practices to allow for remote work at the beginning of the pandemic in order to keep their staff, clients and other business associates safe. By the very nature of their work, CPAs are accustomed to following uniform guidelines and standards to ensure consistency. As the Centers for Disease Control (CDC), the Occupational Safety and Health Administration (OSHA), and others continue to update their guidance and recommendations based on the changing dynamic of the virus, it is critical for Virginia's guidelines to have the flexibility to quickly evolve as well. Even with the proposed amendments, the FPS does not adequately account for the constantly evolving virus and ongoing revisions to federal guidance. It is our recommendation that Virginia rely solely on the federal guidance available as the standard for workplace safety measures. Adoption of separate standards makes compliance challenging for all businesses and institutions and may very well lead to failure to comply simply due to conflicting guidance.

The VSCPA is the leading professional association in the Commonwealth dedicated to empowering CPAs to thrive. Founded in 1909, the VSCPA has more than 13,000 members who work in public accounting, industry, government and education. Please feel free to contact me or VSCPA Vice President, Advocacy Emily Walker, CAE, at (804) 612-9428 or ewalker@vscpa.com if we can be of further assistance.

Sincerely,

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99687 Anonymous 7/29/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99687
Concerned Virginia Resident! I am totally against the continued restrictions and mask wearing we have endured for the past two years. We are not stupid, we get it and we should have the freedom to make choices for ourselves. We know so much about the virus now. In spite of what the news media tells us, it is very treatable (if we are allowed the drugs available that have been proven helpful).

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SEE RESPONSE TO COMMENT 99520
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99689 Lourice Thonas Ii 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99689
NO MORE UNCONSTITUTIONAL OVERREACH Continuing to perpetuate this agenda of control, fear mongering and frankly Cultish Covid obsession with the false pretense of health and infectious disease management is unconstitutional federal and state wise and completely contrary to the economic capitalistic freedoms that are the very foundation of the United States' and our Commonwealth's strengths. There is nothing but destruction to be had for Virginia and Virginians by perpetuation and terrifying the suggestion of permanence of this insanely extreme response to a 99% recovering flu. The burden of compliance is unwarranted and extreme. This is sealing the coffin of small business success, destroying the economy of the Commonwealth and for those that support this stupidity please take your agenda to CA or Ny and get out of my home!

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The constitutionality of the VOSH Standard was challenged in Richmond Circuit Court and upheld (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Order Granting Motion to Dismiss, March 4, 2021). The case is on appeal to the Virginia Court of Appeals (Virginia Manufacturer's Association, et al. v. Ralph S. Northam, et al, Case Number CL20004521, Notice of Appeal, March 31, 2021).

99691 Augusta County Augusta County 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99691

Comments on the Draft Standard It appears to that the CDC recommends masks for those not vaccinated. The draft revisions to the Standards indicate masks are required for those not vaccinated. News outlets indicate the Governor wants to follow CDC guidelines. There appears to be a conflict in the requirements.

The revised Standard appears to discriminate against those not vaccinated. Some have good reasons for not being vaccinated whether medical or not. The choice to vaccinate should be of the individual person. The standard appears to require employers to know if an employee is not vaccinated and then enforce the standard appropriately. What about HIPPA and other code requirements that keep medical information personal? Those not vaccinated should have the choice on whether or not to wear a mask. Employers should not be required to police who is vaccinated or not. Follow CDC as a recommendation, not a requirement.

It's the same with the physical distancing requirements in the Standard. Those not vaccinated can choose to distance themselves from others. We do not need to post signs in designated common areas, breakrooms, lunchroom, etc. on the number of people allowed in a room and then police it. Vaccination is a choice. Those not vaccinated should have the choice to distance from others.

It appears that we are going from "masks protect others" to "masks protect yourself" and now to "vaccinated people wear masks to protect those not vaccinated". Again, is should be a personal choice of those not vaccinated.

The Standard is written in a way to guilt people into being vaccinated so they are not singled out. Medical information will not be private, and those not vaccinated will feel pressure from others to be vaccinated.

We realize there may be parts of the State that have higher positivity rates, and there may need to be additional measures, but don't penalize the areas that do not have a problem.

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SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
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The VOSH Standard addresses medical situations that prevent a person from wearing a face covering:

J. Nothing in this standard shall require the use of a respirator, surgical/medical procedure mask, or face covering by any employee for whom doing so would be contrary to the employee's health or safety because of a medical condition; however, nothing in this standard shall negate an employer's obligations to comply with personal protective equipment and respiratory protection standards applicable to its industry.

1. Although face shields are not considered a substitute for face coverings as a method of source control and not used as a replacement for face coverings among people without medical contraindications, face shields may provide some level of protection against contact with respiratory droplets. In situations where a face covering cannot be worn due to medical contraindications, employers shall provide and employees shall wear either:

a. A face shield that wraps around the sides of the wearer's face and extends below the chin; or

b. A hooded face shield.

2. To the extent feasible, employees wearing face shields in accordance with this subsection shall observe physical distancing requirements in this standard.

3. Face shield wearers shall wash their hands before and after removing the face shield and avoid touching their eyes, nose, and mouth when removing it.

4. Disposable face shields shall only be worn for a single use and disposed of according to manufacturer instructions.
5. Reusable face shields shall be cleaned and disinfected after each use according to manufacturer instructions.

99692 Don Bright
President, Virginia Forest Products Association Submitted Electronically
Virginia Department of Labor and Industry" Virginia Forest Products Association 7/30/2021
https://townhall.virginia.gov/L/viewcomments.cfm?commentid=99692
Remove Permanent Standard

The Virginia Forest Products Association ("VFPA") appreciates the opportunity to comment on the Virginia Department of Labor and Industry's Permanent Standard for Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19, 16 VAC 25-220 (collectively, the "Regulations"). The VFPA has previously commented on the Emergency Temporary Standard; we urge you once again to align any standard with CDC and OSHA guidance, and not exceed that guidance. We remain opposed to the permanent regulation that has adopted a rigid standard for a constantly evolving pandemic.

CDC and OSHA have provided practical, science-based guidance that are suitable to low risk work environments like ours. Specifically, VFPA respectfully requests that:

Original agency language providing "safe harbor" for employers who follow CDC and OSHA guidance be included in any revision of the permanent standard;

Any language regarding "Return to Work" mirror the latest CDC Guidance on time-based return-to-work. Again, this regulation should be consistent in all ways with CDC medical guidance;

Language in Section 40F regarding "N95 filtering face piece respirator" be stricken. As the pandemic evolves, the availability of these masks may again become scarce and be distributed first to healthcare workers. The language of this section states that in ride sharing scenarios, employees "shall be" provided with these masks, with no language that protects employers if the supply of these respirators becomes limited and they are not available to non-healthcare workers; and

All of the language in Section 90 regarding discrimination against employees who raise concerns to the public through social media be stricken. There is no other similar protection we are aware of for employees to distribute potentially damaging and unfounded information against an employer with impunity.

In closing, we would like to reiterate our opposition to a permanent Virginia regulation for COVID-19. Our opposition from the outset to this regulation was rooted in its static nature; the virus is now mutating to the Delta variant and the science is changing daily. The regulatory process simply cannot move fast enough to adapt, particularly in regard to masking policies. Virginia's employers and employees would be better served by adhering to uniform guidance from CDC and OSHA that changes as appropriate with science and is independent of the Board. Thank you for this opportunity to comment.

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With regard to the commenter's concern about return to work requirements being consistent with CDC guidelines, the standard is consistent.
With regard to the commenter's concern about the availability of N95 respirators under 16VAC25-220-40.F, that proposed amendment provision provides:

Notwithstanding anything to the contrary in this standard, the Secretary of Labor may exercise discretion in the enforcement of an employer's failure to provide PPE required by this standard, if the employer demonstrates that the employer:
a. Is exercising due diligence to come into compliance with such requirement; and
b. Is implementing alternative methods and measures to protect employees that are satisfactory to the Secretary of Labor after consultation with the commissioner and the Secretary of Health and Human Services.

With regard to the commenter's concern with the anti-discrimination provisions of 16VAC25-220-90, those provisions are consistent with current statutes, regulations and case law. See DOLI §90, FAQ 1. https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

99693 Brandon Robinson, Associated General Contractors of Virginia Associated General Contractors of Virginia 7/30/2021 https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99693
Construction Industry Concerns with a Permanent Standard
On behalf of the Associated General Contractors of Virginia (AGCVA), Virginia's largest and most influential construction trade organization, we urge you to rescind the Permanent Safety Standard for Infectious Disease Prevention: SARS-CoV-2 / 16VAC25-220, which is a permanent regulatory burden for businesses based on a pandemic that will eventually end.

Throughout the COVID-19 pandemic, Virginia's construction companies invested heavily to keep employees and jobsites safe. While millions of fellow Americans faced unemployment and the consequences of such, many AGCVA members were able to keep employees working and do so safely. Further, the industry has complied with all government mandates and followed the science and recommendations of the Centers for Disease Control.

However, the current Permanent Standard goes beyond the science-based CDC recommendations. If the board feels a full repeal is not in order, AGCVA would at a minimum urge the board to adopt the governor's suggested amendment. This amendment will provide safeguards for employers who follow CDC guidelines, which change frequently as evidenced by this week's updated guidance.

AGCVA represents an industry with a concerted focus on the safety and health of its workforce. Providing these companies the flexibility to adopt safety and health policies and procedures that fit each individual situation is the best way to ensure the safety of Virginia's workers. Ensuring that employers can implement safety measures that follow CDC recommendations and in the best interest of the particular business and its employers is the safest and best path forward.

SEE RESPONSE TO COMMENT 99342
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SEE RESPONSE TO COMMENT 99520
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99694 Anonymous 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99694
Too Much VA should have businesses align with CDC guidance, that's it. Anything beyond that is overly cumbersome and confusing for employers and employees. It is not a one size fits all for safety regulations, especially when the landscape of Covid changes so quickly.

What happens a different variant comes out, and it takes VOSH and VDOLI another 6 months to update this standard? We will have the same situation like we had previously, with outdated and non-

meaningful requirements. Businesses need to be able to be flexible and adapt quickly, and putting strict rules in a Final Permanent Standard is not helpful for anyone.

Align with CDC and drop the Final Permanent Standard. Time, effort, and resources would be better spent in other ways than trying to keep updating these guidelines.

SEE RESPONSE TO COMMENT 99342
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SEE RESPONSE TO COMMENT 99377
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SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99695 Anonymous 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99695

Mandatory Covid Shots FDA stated the Covid shot is gene therapy used to alter one's DNA. The animal study is HUMAN. This is experimental never before used technology on human beings. It is unconstitutional to force anyone to take this shot. It is Not a vaccine. I am against forced vaccination. Put back liability on drug companies so they will stop maiming and killing people. There are over 6000 deaths from the shot and hundreds of thousands of adverse reactions after getting the shot. Enough is enough. Stop the madness. Stop lying to the public. Once you've had the Sars Co V 2 infection, you cannot be reinfected. You have immunity. The spike protein in this shot is a bio weapon, a prion, which causes brain and heart damage. It was put in on purpose. Gain of Function from the Wuhan lab was used to make this virus more infective to people. It was done on purpose for nefarious reasons. It is illegal to mandate this shot. There are many FDA approved drugs that treat Covid that the government and media have suppressed. Emergency Use Authorization documents show us the shots don't work. This is unethical research doing research on people without animal models and without informed consent. You are in violation of Hippocratic oaths, international treaties, and Nuremberg.

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SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
Reports of death after COVID-19 vaccination are rare. More than 351 million doses of COVID-19 vaccines were administered in the United States from December 14, 2020, through August 9, 2021. During this time, VAERS received 6,631 reports of death (0.0019%) among people who received a COVID-19 vaccine. FDA requires healthcare providers to report any death after COVID-19 vaccination to VAERS, even if it's unclear whether the vaccine was the cause. Reports of adverse events to VAERS following vaccination, including deaths, do not necessarily mean that a vaccine caused a health problem. A review of available clinical information, including death certificates, autopsy, and medical records, has not established a causal link to COVID-19 vaccines. However, recent reports indicate a plausible causal relationship between the J&J/Janssen COVID-19 Vaccine and TTS, a rare and serious adverse event—blood clots with low platelets—which has caused deaths.
https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/adverse-events.html

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99696 Virginia's Electric Cooperatives (Sam Brumberg, Vice President, VMDAEC) Virginia's Electric Cooperatives (VMDAEC) 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99696

Comments regarding Amendments to the Final Permanent Standard ("FPS") for Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19
Comments of Virginia's Electric Cooperatives
VIA ELECTRONIC FILING
Dear Ladies and Gentlemen:

The purpose of this letter is to briefly comment in the interests of Virginia's rural electric utilities, the electric cooperatives, and the communities they serve. Virginia's thirteen electric distribution cooperatives have struggled under the FPS, especially as it has conflicted with federal industry safety regulations applicable to the electric industry and COVID-19 guidance from the Centers from Disease Control and Prevention ("CDC"). Although assurances received from the agency's staff indicate that enforcement discretion would be exercised in a common-sense way, the regulatory text should reflect the realities of the fast-changing nature of the COVID-19 pandemic. In particular, please refer to comments submitted June 22, 2020, on the Emergency Temporary Standard, and September 25, 2020, on the FPS. Basic clarifications along these lines are necessary in order to preserve and protect the lives of employees. If the Board is to issue broad, sweeping regulations, such as the FPS, the Board should also reexamine its "long-standing policy" of regulating "regardless of industry" due to the special and essential nature of our work.

We have seen—just this week—a change in CDC guidance regarding the Delta variant of the SARS-CoV-2 virus. With the pace of changes and the variation in community transmission among localities, the amended FPS should be more flexible, nimble, and adaptable to changes as the new Delta variant spreads and other variants, possibly, emerge.

Further, the recommendation of the Governor which would make compliance with CDC guidance tantamount to compliance with the amended FPS is a commonsense approach and would remove the ambiguity around the FPS' ostensible requirement of individualized, case-by-case analysis of whether a particular protective measure within the CDC guidance was "equal to or greater than" the protection required by the FPS. We strongly support the Board's integration of the Governor's recommendation into the amended FPS.

The Board's proposal of an anonymous complaint procedure and a requirement to "resolve" those anonymous complaints with no other details about how that system would work or be monitored portends to create an environment of division and difficulty between employers and employees; such a complaint system should be voluntary.

Finally, there also appear to be no mechanisms in the amended FPS for it to expire, for the Board to convene again to examine changing conditions, or for the Board in any other way to exercise its continuing oversight responsibility over the amended FPS. We urge the Board to add provisions to require meetings at intervals, or to add an expiration date.

We appreciate the opportunity to comment. Thank you for your kind attention to this matter, and if you have any questions, please do not hesitate to contact me.

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SEE RESPONSE TO COMMENT 99377
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SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

The Proposed Amendments provide a specific timetable for review of the VOSH Standard:
B. This standard is adopted in accordance with subdivision 6 a of § 40.1-22 of the Code of Virginia and shall apply to every employer, employee, and place of employment in the Commonwealth of Virginia within the jurisdiction of the VOSH program as described in 16VAC25-60-20 and 16VAC25-60-30.

1. Should the federal COVID-19 Emergency Temporary Standard, 1910.502, et seq., applicable to settings where any employee provides healthcare services or healthcare support services, be adopted by the Virginia Safety and Health Codes Board and take effect, application of Virginia's 16VAC-25-220, except for 16VAC-25-220-40 B.7.d and e, and
16VAC25-220-90, to such covered employers and employees subject to the standard shall be suspended while the federal COVID-19 Emergency Temporary Standard remains in effect.
2. Should the federal COVID-19 Emergency Temporary Standard, 1910.502, et seq., applicable to settings where any employee provides healthcare services or healthcare support services, be adopted by the Virginia Safety and Health Codes Board but later be stayed or invalidated by a state or federal court, the provisions of Virginia's 16VAC25-220, Final
Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, including 16VAC25-220-50, shall immediately apply to such employers and employees in its place with no further action of the Board required.
3. Should the federal COVID-19 Emergency Temporary Standard, 1910.502, et seq., applicable to all settings where any employee provides healthcare services or healthcare support services, be adopted by the Virginia Safety and Health Codes Board but later be stayed by federal OSHA, or otherwise revoked, repealed, declared unenforceable, or permitted to expire, the provisions of Virginia's 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, including 16VAC25-220-50, shall immediately apply to such employers and employees in its place with no further action of the Board required. In addition, the Virginia Safety and Health Codes Board shall within 30 days notice a regular, special, or emergency meeting/conduct a regular, special, or emergency meeting to determine whether there is a continued need for Virginia’s 16VAC25-220, Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, or whether it should be maintained, modified, or revoked.

99697 Dennis A Edwards, CHST, OHST 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99697

Rescind the final standard The overwhelming majority of the commenters do not support a continuation of the FPS much less support the proposed amendments.

The standard can't keep pace with the constant evolution of the virus.

The standard was not and is still not needed.

DOLI has not shown how the FPS has been successful. DOLI has not shown a need for the standard to continue.

Just this week the CDC guidance has once again changed. So now, several parts of the amended standard would no longer be in line with current guidance. Just like the previous iteration of the standard.

This can't continue. Rescind the FPS. There is enough information out there for working adults to make their own decisions about the protections that they need for their own health issues. COVID is not a workplace issue. It is unfair to make employers responsible for employees when they aren't on the job.

It is unfair for DOLI and the SHCB to promote divisiveness and discrimination amongst workers. DOLI and the SHCB are not medical professionals or scientists and should in no way be trying to force vaccinations on the work force.

It is time to move on. Rescind the FPS and let's get back to the business of real worker protections."

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SEE RESPONSE TO COMMENT 99377
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SEE RESPONSE TO COMMENT 99520

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99698 Bruce T. Whitehurst
President & CEO, Virginia Bankers Association" Virginia Bankers Association 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99698
Repeal the FPS Chairwoman Rodriguez,
Thank you for the opportunity to comment on the Final Permanent Standard (FPS). The Virginia Bankers Association (VBA) serves as the organized voice for Virginia's $615 billion banking industry and its 42 thousand employees. We appreciate the efforts of the Safety and Health Codes Board on this important issue. With the expiration of the Governor's pandemic-related Executive Orders, the end of the state of emergency, and the proliferation of COVID-19 vaccines, the VBA supports the repeal of the FPS. Alternatively, if the Board decides that the FPS should remain in place, the VBA supports the proposed amendments as well as the Governor's substitute language for 16VAC25-220-10(E).
Please free free to contact me if you have any questions at 804-819-4701 or bwhitehurst@vabankers.org.

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99699 Olin Kinney, Metropolitan Washington Airports Authority Metropolitan Washington Airports Authority 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99699
Final Permanent Standard for Infectious Disease Prevention 16VAC25-220-50/60 B. Engineering Controls
Final Permanent Standard for Infectious Disease Prevention 16VAC25-220-50/60 B. Engineering Controls
The engineering controls as stipulated represent and extreme overreach of the regulatory process since it is impractical for Owners of existing buildings, absent of any pending major renovations, to comply with standards that preceded the time when the facilities were designed and constructed. Equipment originally installed and appropriate to the building occupancy should be required to function as intended and was inspected during construction or last significant renovation.

Building HVAC systems in use have been designed, constructed, and commissioned in accordance strict building code requirements in effect at the time of issuing the Certificate of Occupancy. The engineering controls should only require systems to be maintained and operated in accordance with their system design and related manufacturer requirements such that the mandatory minimum level of protection of the workforce is ensured. Engineering controls in part B should be revised and limited to the ASHRAE 62.1 edition in effect at the time of building design or last significant renovation.

It is still yet to be determined by the industry trade groups as to the most effective design performance requirements for existing and new HVAC systems and any permanent regulations should follow existing processes contained in the Virginia Uniform Statewide Building Code (USBC).

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SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
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The HVAC provisions in the VOSH Standard referenced by the commenter were specifically reviewed by the Virginia Department of Housing and Community Development (DHCD) and found to conform to Virginia Statewide Building Code requirements.

99701 Laura Karr, ATU Associate General Counsel lkarr@atu.org or (240) 461-7199.
Amalgamated Transit Union 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99701

The Amalgamated Transit Union (the "ATU") submits the following Comments regarding the amendments proposed to the final permanent standard regarding infectious disease protection, SARS-CoV-2, and Covid-19 that are under consideration by the Virginia Safety and Health Codes Board (the "Board"). As the labor union representing over 2,200 bus, rail, and paratransit workers employed throughout Virginia, the ATU comes before the Board to present these workers' pressing safety concerns regarding the proposed amendments – just as the ATU did in October 2020 and January 2021 concerning the final permanent standard.

Further, the ATU stands with its labor movement allies – represented by the AFL-CIO – in supporting certain proposed amendments while urging the Board to strike others, as enumerated in the comments filed by the AFL-CIO. The Board should not construe the decision by the ATU not to expand here upon certain AFL-CIO requests as indicating a lack of support for those points. Instead, the ATU will use its limited comment space to highlight only the following concerns that are most pressing to our Virginia members.

The ATU strongly supports the following amendments that enhance protections for transit workers:

16 VAC 25-220-40(F)-(G): The ATU commends the Board for proposing to expand the scope of protections for workers who must travel with others in vehicles so that those protections encompass not only coworkers who travel together but also workers who travel with any "other persons." Importantly, this category of "other persons" reasonably would include members of the transit-riding public. The proposed amendment is a common-sense improvement to the final permanent standard because it recognizes that it is the presence of potentially infected people, not those people's status as coworkers or members of the public, that determines a worker's infection risk. Because all people are potentially infected, regardless of their vaccination status – due to the rise of the Delta variant of SARS-CoV-2, the accompanying increase in breakthrough infections, and the expected future emergence of more virulent variants – the only way to promote worker safety in vehicles is to require effective and targeted protections for all workers who must ride with others.

If amended, the final permanent standard would do this by requiring transit employers to provide fresh air ventilation; eliminate air recirculation; separate transit vehicle operators from passengers, including by limiting vehicle occupancy; and provide respiratory protection to vehicle operators. These measures are consistent with the ATU's own conclusions regarding vehicle operator safety during the SARS-CoV-2 pandemic, based on over a century of transit safety expertise and on research specific to SARS-CoV-2.[1] Equally important is the fact that the protections that the Board proposes to extend to transit workers are readily feasible for transit employers, with the necessary vehicle components available on the market today.[2] In fact, employers of ATU members in Virginia and across the United States have implemented many of these protections successfully at various times during the pandemic. Although transit employers incur costs in doing so, they have received generous pandemic-related support from the federal government. Those funds should mitigate the impact of any additional expenditures that would result from compliance with these proposed amendments, which the ATU urges the Board to adopt without delay.

16 VAC 25-220-60(A): The ATU also commends the Board for proposing to list transit among the "higher-risk workplaces" that are subject to the enhanced protections contained in this section. Importantly, transit workers' coverage under 16 VAC 25-220-60 also ensures that their employers are required to train them in SARS-CoV-2 safety pursuant to 16 VAC 25-220-80. The experience of the ATU throughout the pandemic has confirmed that transit workers face substantial risks on the job; to date,

tragically, we have lost over 150 members to Covid-19, and many more have suffered through the illness.

Likewise, a New York University study found that as of August 2020, nearly a quarter of New York City transit workers reported having been infected with Covid-19.[3] While most Virginia transit workers serve areas that are less densely populated than New York, their cumulative risk now likely exceeds that of New York transit workers in August 2020, since the pandemic has persisted for an additional year. Meanwhile, researchers have found that in the United Kingdom, transit workers have died from Covid-19 at rates more than double those of the general working population;[4] in Norway, they are among those with the highest risk of contracting Covid-19;[5] and across six Asian countries, they had the second highest number of occupational SARS-CoV-2 exposures of all groups of workers studied.[6] There is nothing unique to these countries that puts transit workers there at greater risk from SARS-CoV-2 than they are in Virginia. Instead, the threat arises – universally – from transit workers' frequent and prolonged contact with the public in confined, often poorly-ventilated spaces. The ATU, therefore, urges the Board to adopt the amendment clarifying that transit workers face enhanced risks and are entitled to correspondingly enhanced protections.

The ATU urges the Board to reject the following amendments that would reduce worker protections:

The ATU is alarmed to find that the Board has proposed several amendments that would reduce protections substantially for workers who are fully vaccinated against SARS-CoV-2. If adopted, these amendments would eliminate an employer's obligation to provide physical barriers, administrative and work practice controls, personal protective equipment, and SARS-CoV-2 training to protect vaccinated workers. (See 16 VAC 25-220-60(B)(2), (C)-(D) and 16-VAC-25-220-80(A)(2).) Likewise, an employer would be free to disregard vaccinated workers when determining whether its workforce is large enough to require a written infectious disease preparedness and response plan. (See 16 VAC 25-220-70(A)(2).) To the extent that the standard still would require the employer to develop such a plan, neither the plan itself nor its training requirements would apply to vaccinated workers. (See 16 VAC 25-220-70(B)(2).)

The present state of scientific knowledge regarding SARS-CoV-2 does not support these amendments. Since December 1, 2020, testing labs have detected 644 cases of the Delta variant in Virginia.[7] This number represents over seventeen percent of the total cases in the state during the week ending July 30, 2021, and due to limitations on labs' virus sequencing abilities, the actual number of Virginia Delta cases is likely much higher.[8] Further, Delta cases are increasing in Virginia, having doubled in the two weeks prior to July 9, 2021. By the end of June 2021, Delta cases represented eighty percent of all SARS-CoV-2 specimens sequenced in Virginia. Researchers predict that Delta will become the dominant viral strain in the state. [9]

Delta's increasing prevalence is important because, as the U.S. Centers for Disease Control and Prevention announced on July 29, 2021, it appears that vaccinated people who become infected with Delta can transmit the infection to others.[10] This was not thought to be the case with other SARS-CoV-2 variants. The difference might be due to the fact that people infected with Delta tend to have high viral loads, regardless of whether they have been vaccinated.[11] Therefore, while breakthrough infections remain rare in Virginia, with 1,566 detected since January 1, 2021 (although due to the widespread practice of not reporting breakthrough cases that do not result in hospitalization, the true number is likely much higher), those that do occur are now more dangerous because they can feed outbreaks among unvaccinated people.[12] With thirty-five percent of Virginia's adult population still unvaccinated, the danger of Delta-driven viral spread is real, as is the potential for vaccinated people to help drive that spread.[13]

Under these circumstances, it is essential that the Board continues to require employers to protect both vaccinated and unvaccinated (and otherwise at risk) workers alike. It is well understood that SARS-CoV-2 spreads in workplaces. Vaccinated workers are not necessarily immune, and they can infect their unvaccinated colleagues. Therefore, the only way to stop the occupational spread of the virus is to protect all workers. Doing so will have the added benefit of sparing employers the administrative burden of keeping constant track of who is vaccinated and who is not, along with which

protections apply to whom. For these reasons, the ATU urges the Board to reject the aforementioned amendments and preserve the full protections of the final permanent standard for all workers.

16 VAC 25-220-60(C)(10)-(11): The ATU is likewise dismayed that the Board is considering amending these sections to eliminate an employer's obligation to provide masks to workers (and require those workers to wear them) when the workers' jobs make physical distancing impossible or when the workers hold customer-facing positions. Most transit workers fit into these categories. An executive order and accompanying U.S. Transportation Security Administration directive currently protect transit workers by requiring universal masking in indoor areas of transit systems.[14] However, these rules expire on September 13, 2021, and the federal government might not renew them.[15] Virginia transit workers would then have no assurance that their employer would provide masks – the absolute minimum level of viral protection that workers need in confined spaces with members of the public, any one of whom could be infected. Therefore, the ATU calls on the Board to preserve mask protections for these vulnerable workers.

The ATU appreciates the opportunity to comment on the proposed amendments, and we thank the Board for its consideration. For further information regarding the matters discussed herein, please contact ATU Associate General Counsel Laura Karr at lkarr@atu.org or (240) 461-7199.

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484

"The Transportation Security Administration on Tuesday extended a federal requirement that travelers [and employees] wear masks on commercial flights, buses and trains through Jan. 18, 2022." https://www.cnbc.com/2021/08/17/biden-administration-set-to-extend-mask-mandate-for-travel-through-mid-january.html

The Department of Labor and Industry (DOLI) has consulted with the Virginia Department of Health (VDH) about whether REVISIONS should be recommended to the Board's Proposed Amendments to the VOSH Standard originally adopted on June 29, 2021, in response to the CDC's updated guidance for fully vaccinated people issued on July 27, 2021 (requirement in certain situations for fully vaccinated employees to wear face coverings in areas of substantial or high transmission).

https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

DOLI and VDH are in agreement that some REVISIONS should be recommended to the Board along with the Governor's amendment to 16VAC25-220-10.E.
(https://www.doli.virginia.gov/wpcontent/uploads/2021/07/Summary-of-Governor-Northams-Review-of-Proposed-Amendmentsto-16VAC25-220-7.1.2021.pdf).
The Dept. invites the public to comment on the Revised Proposed Amendments to the VOSH Standard by using the Townhall Comment Forum here. The forum will be open for 7 days from August 16, 2021 to August 23, 2021. https://townhall.virginia.gov/L/ViewNotice.cfm?GNid=1309

99703 Petrina Jones Wrobleski, Columbia Gas of Virginia Columbia Gas of Virginia
7/30/2021 https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99703
Comments on Final Permanent Standard and Proposed Amendments Columbia Gas of Virginia respectfully offers the following comments to the proposed amendments to the Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus, 16 VAC25-220, ("FPS"). We join with other commenters in asking that the FPS be revoked or, at a minimum, amended to provide better clarity for Virginians.

The FPS was born of an emergency involving a virus, COVID-19, about which little was known. Since the first cases of COVID-19 were reported, the knowledge, expertise, and experience as to how to limit the spread and treat the illness has grown rapidly. In addition, a growing percentage of the population has been vaccinated against the illness or otherwise has some level of natural immunity following infection and recovery. For these reasons, the emergency measures put into place are no longer necessary. Indeed, many are no longer relevant or in accordance with current best practices.

Should the FPS amendments proceed despite the lack of necessity, the Company objects to the difficult position the proposed amendments continue to place on employers and, by extension, employees.

At the outset, the goal of most employment-related government regulations is to prevent employers from treating employees disparately. This is not true of the FPS. The FPS potentially requires employers to draw distinctions between employees based on vaccination status. While some employees may be willing to share that information, others will not. And while an employee may choose not to reveal their vaccination status, that employee will be required by the FPS to self-identify by wearing a face covering and observing other social distancing requirements. Certainly, employers may, after careful consideration, choose to either require vaccination or proof thereof, but that decision should only be undertaken after careful consideration of all relevant laws and research related to COVID-19 and its vaccines, not in response to an emergency standard that is not capable of responding to new developments.

Second, the proposed amendments do nothing to address the myriad of operational inefficiencies and impossibilities created by the FPS. For example, the FPS requires restrooms to be cleaned once per shift. For employers with remote employees who use remote-stationed portable restrooms, the unworkable, and perhaps unnecessary given current guidance related to hygiene, cleaning requirements necessitated the removal of the portable restrooms or other onerous cleaning solutions. Additionally, the requirement that employers provide N-95 face masks for employees traveling together in vehicles led to confusion regarding compliance with OSHA fit testing requirements and ignored other mitigating measures or circumstances. Indeed, the amendments ignore the impact of employees who have some level of natural immunity as a result of having contracted and recovered from COVID-19.

Should the agency choose not to repeal the FPS, at a minimum, we would request the Board adopt substitute language to 16VAC25-220 to deem compliance with the FPS if the employer complies with the CDC guidance to mitigate the spread of the SARS-CoV-2 virus, which continues to responsibly evolve in response to the changing dynamic of COVID-19.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

With regard to the commenter's concerns about employees being treated differently based on their vaccination status, the Department notes that, as many employers and organizations representing employers have requested, the proposed amendments are designed to address updated CDC guidance on the issue. If the employer has concerns about employees being treated differently based on vaccination status, they can legally implement face covering and other safety and health rules for their employees that are more stringent than 16VAC25-220.

Note: The Department of Labor and Industry (DOLI) has consulted with the Virginia Department of Health (VDH) about whether REVISIONS should be recommended to the Board's Proposed Amendments to the VOSH Standard originally adopted on June 29, 2021, in response to the CDC's updated guidance

for fully vaccinated people issued on July 27, 2021 (requirement in certain situations for fully vaccinated employees to wear face coverings in areas of substantial or high transmission).
https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

DOLI and VDH are in agreement that some REVISIONS should be recommended to the Board along with the Governor's amendment to 16VAC25-220-10.E.
(https://www.doli.virginia.gov/wpcontent/uploads/2021/07/Summary-of-Governor-Northams-Review-of-Proposed-Amendmentsto-16VAC25-220-7.1.2021.pdf).

The Department invites the public to comment on the Revised Proposed Amendments to the VOSH Standard by using the Townhall Comment Forum here. The forum will be open for 7 days from August 16, 2021 to August 23, 2021. https://townhall.virginia.gov/L/ViewNotice.cfm?GNid=1309

With regard to N-95 issues raised by the commenter, the Department has issued §40, FAQs 37 and 38 on those issues. https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/

99704 Sara Kitt, Anheuser-Busch Anheuser-Busch 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99704
Requested Updates and Clarifications 220-10.E CDC guidelines can only be followed in lieu of DOLI requirements if they offer equivalent or greater protection

During past revisions of the DOLI regulation this requirement has led to confusion as new information about the pandemic becomes available. CDC guidelines are continuously evolving and a hierarchy of standards to follow would be more effective for long term implementation than a separate set of FAQ guidelines that don't align with the original regulation.

220-40.E.4 Requires respiratory protection in shared vehicles.

It remains unclear whether medical clearance and fit testing is required for N95 use in this application. This was previously clarified in a FAQ to not require medical clearance and fit testing if a N95 was selected. Can this be included in the standard?

220-40.F.1.f Provides face covering exceptions.

How does this apply to contractors working at a facility that has different rules than their employer?

220-40.L.5.a Required frequencies for cleaning and disinfection of common spaces.

Add provision for supplying cleaning and disinfection equipment in the area that can be used to clean and disinfect prior to accessing the common space

220-50 Need additional clarification under A.6.a around what is considered a licensed healthcare provider.

It appears this section is not intended to apply to first aid provided by an employee. Seeking to clarify that an employee licensed as an EMT would not be considered a licensed healthcare provider.

220-20 The definition of "otherwise at-risk" includes an employee's personal health conditions that the employer may not be aware of. Sections 220-40.D and 220-40.G require the employer to require these employees to take certain actions.

Update sections that reference "otherwise at-risk employees" so that the employer is required to provide protective measures but not required to enforce the requirement since employers are not aware of what employees may be in this category.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

As the commenter noted, the Department has FAQs dealing with the voluntary use of respirators. See §40, FAQs 37 and 38. https://www.doli.virginia.gov/final-covid-19-standard-frequently-asked-questions/ If proposed amendments to the standard are adopted, DOLI will update its FAQs accordingly.

With regard to multi-employer worksites and different approaches to employee safety and health taken by subcontractors on a host employer's worksite, first, each employer must comply with the requirements in VOSH standards to protect their own employees. Host employers can establish safety and health work rules for companies it contracts with that meet or exceed VOSH requirements. Such rules are normally included in contractual agreements. The Department recommends the commenter consult with legal counsel about including such language contracts with subcontractors who will be entering the host worksite.

With regard to the commenter's question about employees who are licensed EMTs, if an employer hires a licensed EMT for the purposes of providing medical assistance to employees, the EMT would be considered a "licensed healthcare provider" under the standard. However, if the employee is a licensed EMT but that designation has no relation to her job duties and that employee provides first aid to another employee on a "good Samaritan" basis, the licensed EMT would not be considered a "licensed healthcare provider."

99705 Anonymous 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99705

REPEAL THE FPS The FPS and proposed amendments typify a hurried and ill conceived administrative process that has saved no one while imposing near impossible burdens on thousands of individuals, businesses and organizations. Creating sedimentary layers of duplicative, discordant and scientifically unsupportable shoulds on the Commonwealth's businesses and employers has brought only confusion and noncompliance, not an orderly informed path toward worker safety. The amendments are out of step with swiftly changing CDC guidance and even conflict with executive orders and various state and federal safety enactments. The Standard cannot keep pace with medical developments. Its central flaw of perpetual obsolescence cannot be papered over.

The attempt to impose burdens and benefits based on employee vaccination status invades well established zones of constitutional privacy. It effectively creates a caste system that coerces employees into making decisions about their body, health and family based on the State's preferences rather than respecting the medical self determination of its citizens. The vaccination apartheid proposed by DOLI also has a disparate impact on Blacks and Latinos who are less likely to obtain vaccines and therefore more likely to be blackballed, marginalized and harassed. The DOLI approach of medical status haves and have nots compels employers to violate the ADA, informational privacy laws as well as civil rights laws.

Regarding PPEs, simply read the mask disclaimers. They affirm what everybody already knows; masks do not reduce virus transmission, so why are public officials persisting in this cruel charade devoid of scientific merit?

The regs were a trainwreck from the beginning. They were enacted without public input, without expertise in contagious diseases and without the careful measured approach owed to the People of Virginia. Repeal is the only logical and ethical solution. Public officials who tinker with the lives of the citizenry should at least honor the principles of Hippocrates, the father of medicine, who presciently warned medical professionals to first, DO NO HARM. The FPS and its proposed amendments work substantial harm to both employers and employees and should therefore be repealed. No amount of wordsmithing can salvage this bureaucratic debacle.

SEE RESPONSE TO COMMENT 99342

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The Standard was the subject of extensive public input including multiple written comment periods and multiple public hearings which can be accessed www.doli.virginia.gov.

99706 VIRGINIA BUSINESS COALITION
Associated Builders and Contractors -Virginia
Associated General Contractors of Virginia
Delmarva Chicken Association
Hampton Roads Chamber of Commerce
Harrisonburg – Rockingham Chamber of Commerce
Heavy Construction Contractors Association
National Federation of Independent Business
Northern Virginia Chamber of Commerce
Northern Virginia Transportation Alliance
Precast Concrete Association of Virginia
Richmond Area Municipal Contractors Association
Shellfish Growers of Virginia
Thomas Jefferson Institute for Public Policy
Virginia Agribusiness Council
Virginia Assisted Living Association
Virginia Association of Roofing Professionals
Virginia Association of Surveyors
Virginia Association for Home Care & Hospice
Virginia Automatic Merchandising Association
Virginia Contractor Procurement Alliance
Virginia Food Industry Association
Virginia Forestry Association
Virginia Forest Products Association
Virginia Loggers Association
Virginia Manufactured & Modular Housing Association
Virginia Manufacturers Association
Virginia Peninsula Chamber of Commerce
Virginia Poultry Federation
Virginia Retail Federation
Virginia Seafood Council
Virginia Trucking Association
Virginia Veterinary Medical Association
Virginia Wholesalers & Distributors Association
Virginia Wineries Association 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99706

Repeal Permanent Standard
Dear Safety and Health Codes Board Members:
On behalf of the Business Coalition (“Coalition”) which is comprised of 34 leading business associations across the Commonwealth, we thank you for the opportunity to comment on the Virginia

Department of Labor and Industry's announced intent to amend the Permanent Standard for Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220 (collectively, the "Regulations").

For the last year and half, Virginia employers have committed themselves to protecting their employees, contractors, suppliers, customers, and communities from COVID-19 infection. They have done this by continually updating their COVID-19 protocols to ensure they are complying with the latest regulations and guidance imposed by federal, state, and local regulators. Despite the additional stress, costs and time related to compliance, business leaders and owners understood how critically important it was to do their part to reduce the risk of exposure and spread of the virus.

Understanding Virginia businesses need clarity and consistency in any regulatory program and the permanent standard is a static regulatory burden for a pandemic that is temporary, our Coalition respectfully asks the Board to repeal the permanent standard.

However, if the Board feels a standard should remain in effect as the pandemic winds down, we strongly encourage the Board to adopt Governor Northam's recommendation to amend Section 16VAC25-220-10.E to provide employers with safeguards should they comply with the most recent CDC guidance. We hope the Board will reconsider and approve the following language change.

E. To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or nonmandatory, to mitigate SARS-CoV-2 virus and COVID-19 disease related hazards or job tasks addressed by this standard, the employer's actions shall be considered in compliance with the related provisions of this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by a provision of this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard. The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.

By approving the Governor's recommendation to 16VAC25-220-10.E, you will enable employers to return their focus where it belongs — on best practices as they are recommended in real time by the CDC.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99707 "Scott Killian

7/30/2021 https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99707

Opposition Statement to Permanent Standards "Dear Members of the Safety and Health Codes Board:

I am writing today to express my opposition to the Covid-19 permanent workplace standards – whether the January version or the new proposed amended version. I believe that the amended version should not be adopted and the existing version should be abrogated.

In reviewing the amended order, I fail to see any rational basis for it. Instead, it seems designed to make life more difficult for people who have made a different medical choice than you would like.

To illustrate my point, let's take a two-person example – Person A is vaccinated; Person B is not. Under the amended standards, Person B would be required to wear a mask and maintain social distance at his place of employment (presumably forever since there is no end date in the standards). Person A would not need to wear a mask and does not need to maintain social distance.

If the theory is that this policy protects Person A, it does not hold up. In order for this theory to be correct, Person A would have to be able to catch Covid-19 from an unvaccinated person but not be able to catch Covid-19 from a vaccinated person. Such a contention defies not only logic, but evidence. Even the premise of the theory underlies it. The theory assumes that despite being vaccinated, Person A can catch Covid-19. So if Person A can catch it, then any other vaccinated person can catch it. And if Person A is around such a vaccinated person that has caught it, then this only protects Person A if it's not possible to transmit Covid-19 from a vaccinated person. But recent cases (such as the New York Yankees, the Texas Democrat delegation, the wedding written about in Forbes, and even recent documents released by the CDC) show that even among fully vaccinated individuals, Covid-19 can spread. So distinguishing between vaccinated and unvaccinated makes no difference in protecting Person A and makes it an arbitrary distinction. Person A's protection comes not from being distant from unvaccinated people, Person A's protection comes from the vaccine. This vaccine, like virtually all vaccines, is designed to protect the person who receives it. If Person A does catch Covid-19, that person is almost certainly not going to have any serious outcome because of the vaccine (again, making any additional protections unnecessary).

If the theory is that this policy protects Person B, it is unnecessary, paternalistic and overreaching. The vast majority of people who are not vaccinated have made a choice not to be vaccinated. Some do so because they have already had Covid and have natural immunity; some have concerns about the safety of the vaccines (including unknown long-term effects); some have concerns that the vaccines are not fully approved, but only have been given emergency use authorization; some have determined that given their age and medical situation (e.g., lack of comorbidities) that it is unnecessary. If the theory is this policy protects Person B, then that leads to the conclusion that you are mandating this because you don't agree with a medical choice someone made for themselves (since, as discussed in the previous paragraph, the vaccine is not about protecting others). This is absolutely not the place of the government period, but certainly not this agency.

These regulations also have no end date. When the pandemic first started, the restrictions that were put in place were done so under the guise of "two weeks to flatten the curve." The idea was to avoid the hospital system from being overwhelmed. Then when that was achieved, the restrictions did not go away, but instead the goalpost shifted. The restrictions were then recast as necessary until all adults have had the opportunity to get vaccinated. That has been achieved. And yet again, we are faced with a moving goalpost, but this time, there is not even a pretense of when Covid restrictions will go away. It is intended to be a permanent change. This is unwarranted and ignores reality. Our hospital systems are not in danger of being overwhelmed; every adult has the ability to obtain a vaccine if they so choose; the daily death rate from Covid is low (something like Alzheimer's at this point). Covid has become a livable disease that everyone has the ability to protect themselves from. The government should step back and allow people their freedoms.

As further evidence that these regulations are designed just to punish those with whom you disagree, it makes no distinction about when a person is vaccinated. Evidence is coming out that the vaccine's effectiveness drops off (by some measures fairly significantly) after some period of time (around 6 months). The drug companies and federal agencies are already talking about the need for booster shots. Yet these regulations define a person as someone who received the vaccine at least 2 weeks prior. So if someone gets the vaccine in January 2021, under these regulations in July 2022, they would still be classified as "vaccinated" even though the effectiveness of that vaccine at that point (18 months after it was received) may be on the level of someone who never got it. And yet no restrictions are placed on that person. This distinction is arbitrary and without any rational basis.

These regulations also make no allowance for those who have natural immunity from Covid because they had it. Some indications are that the immunity one gets from having Covid is better and lasts longer than the immunity received from the vaccines (including with the Delta variant). Yet those individuals under these regulations are put into the class that needs to be protected. Again, such a delineation is arbitrary.

And finally, these regulations impose additional and unnecessary burdens on Virginia businesses. These standards are different than other states and the federal guidelines. So companies would now have an additional set of possibly conflicting guidelines to navigate and implement. It also takes time and effort for their compliance employees to track the status of each employee and their actions. These additional burdens are not what Virginia businesses need after over a year of being hampered in their ability to conduct business. They need to be allowed to reopen and resume their normal activities.

For all these reasons, I strongly oppose the proposed amendment and believe that the existing permanent regulation should be abrogated.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99708 Jenn

7/30/2021 https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99708

comments "Does zthe fact that the COVID vaccine is still in an experimental vaccine and in emergency use authorization make a difference? There are medications out there to treat COVID. All persons in the state of Virginia were offered the vaccine. It is available. If they choose to take the vaccine it is their own risk and if they choose not to get the vaccine it is their own risk. My choice my body. People have made an informed decision and should have the freedom to make that choice without being discriminated against.

16VAC25-220-10 Purpose, scope, and accessibility

Sections C

If there is a failure on the employers part of not having proper PPE. Employers should be held responsible and could have action brought against them. If there is not the proper PPE available, employee should not be asked to work.

16VAC25-220-40 Mandatory requirements for all employees

D. 3. “provide that such requirements do not apply to fully vaccinated employees”

This looks like segregation. Also is this subjective if the requirement of having boosters of the COVID vaccine, when will someone be onsidered to be fully vaccination.

E. Access to common area…

Again this looks like segregation. What happens to the person who is allergic to ingredients in the vaccine? Is that person going to be punished and not allowed in the common areas, etc.? Also what about consideration of vaccinated people who are shedding from the vaccine?

E. 1. All employees should follow the same guideline of sanitizing and cleaning, regardless of the vaccination status, as recommend in universal precaution training.

E. 2. All employees should follow the same occupancy limits, not discrimination.

G. Making an employee that is non vaccinated wear a mask singles them out, violates HIPAA, and marks them with visual discrimination such as a scarlet letter.

16VAC25-220-50 requirements for healthcare…

6. g.

Remove “are not fully vaccinated” throughout the entire text. All employees should be assumed to be contagious whether it is a person who was vaccinated and is shedding or unvaccinated. Just like all police officers should be CIT trained so everyone is treated with respect.

Having un-vaccinated employees wear masks is an outward display of a health status and HIPAA breech.

16VAC25-220-70 infectious disease…

7.b. Employers would not have to know of these health conditions if it does not affect the employees' job performance and they have not asked for a reasonable accommodation.
16VAC25-220-80 Training
A section 2
All employees need to have training just as all employees need universal precautions. No employee should be exempt from having training.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.
If employers do not provide employees with either respiratory protection equipment or personal protective equipment required by a VOSH standard or regulation, they are subject to citation and penalty.

99709 Anonymous 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99709
No more mandates Do not attempt to divide our great state anymore! Vaccination is a personal choice not a law. CDC, unelected individuals who are complicit, provides recommendations, not laws. There is no science to prove that these mandates have made our state safer. Other states had no mandates and did just fine. This has been a year of hell for the citizens and employers with again no science to justify the requirements. Masks do not protect from viruses. Look at the box. Look at a newspaper from 1918; we knew it then and the facts have not changed. How are you going to detect Covid since now the CDC and FDA advise that the PCR tests are faulty? They cannot detect between the flu and Covid. Even the inventor of the test said that they should not be used in Covid testing. This cost him his life. Why didn't the total deaths last year increase overall if we were in a pandemic? Total deaths are nearly the same as they have been for the past 5 years, per the CDC website. End all mandates and allow every one to chose for themselves how they want to protect their family. Stop dividing us. Stop putting ridiculous and unproven requirements on employers. We are free and will not be manipulated and lied to.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671
The standard does not require employees to be vaccinated.

99710 KK German 7/30/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99710
Only 420 covid deaths total in a city of 437,000 (2010 census) The PCR tests are bunk. And after a year of shutting down and causing irreparable harm to the citizenry, now the FDA is admitting they were in error to recommend 40 cycles that results in millions of FALSE POSITIVE covid results.
My city has had 420 covid deaths since the beginning of the pandemic, March 2020 to July 2021.

In a population of 437,000 (2010 census) that equals a death rate of .096% PER CENT for the entire population of the city.

This medical tyranny needs to cease immediately. It is killing commerce and livelihoods. Children are being suffocated and no child has died from covid.

WHAT IS WRONG WITH YOU PEOPLE? IS CHINA PAYING YOU OFF?

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99711 Vanessa L Patterson, Executive Director RAMCA, Executive Director PCAV Submitted Electronically
RAMCA & Precast Concrete Association of Virginia 7/31/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99711
Repeal Permanent Standard for Infectious Disease Prevention: 16VAC25-220 Standard "RAMCA & Precast Concrete Association of Virginia

Dear Safety and Health Codes Board Members:

On behalf of the Richmond Area Municipal Contractors Association (RAMCA) and the Precast Concrete Association of Virginia (PCAV), I respectfully request a full repeal of the Permanent Standard for Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220 standard. If the Safety and Health Codes Board is unable to support a full repeal of the Final Permanent Standard, the Board should adopt Governor Northam's substitute language for 16VAC25-220-10(E):

E. To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or nonmandatory, to mitigate SARS-CoV-2 virus and COVID-19 disease related hazards or job tasks addressed by this standard, the employer's actions shall be considered in compliance with the related provisions of this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by a provision of this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard. The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.

Thank you for the opportunity to comment.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99712 Anonymous 7/31/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99712
This Rule Divides US and Doesn't Protect Us As an essential worker who has gone to work everyday vaccine or no, I am opposed to this regulation. Across the country, we are seeing a divide of citizens based on their willingness to take a vaccine that is not approved by the FDA. There are many reasons an individual might not get the vaccine and separation of them vs those who have it is leading to

discrimination in the workplace. I understand the need to keep workers safe, but if high risk people are vaccinated and deaths are down let us move forward together.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99713 Muhamad Soros Wang 7/31/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99713
Absolutely Opposed to Government Control-My body-My Choice!! This is an obvious result of your unquenchable lust for power. You will never win trying to play God. God is watching and taking notes. Psalm 105:15 "Touch not my anointed ones and do my prophets no harm.

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99714 Anonymous (with letter reference on behalf of AFL-CIO) AFL-CIO 7/31/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99714 Comments of the Virginia AFL-CIO on the VOSH Proposed Revised Final Permanent COVID-19 The Virginia AFL-CIO, a state federation of the national AFL-CIO, represents over 300,000 union members and their families. With over 300 affiliated local unions in the Commonwealth, unions represent workers in a broad range of industries including healthcare, first response, food processing, manufacturing, hospitality, construction, transportation, utilities, grocery and retail service, education, and others; in private and public sectors; in stationary and mobile workplaces. Our members work side-by-side millions of non-unionized workers.

In 2020, the Commonwealth of Virginia was the first in the nation to recognize the need for enforceable workplace protections from COVID-19 and implement a strong clear standard to prevent the virus from spreading and save lives. Recognizing that COVID-19 is not a temporary workplace hazard, the Commonwealth issued a permanent standard in January 2021. Workplace outbreaks have been a key indicator of virus spread throughout the pandemic and continue to be a major source of COVID-19 exposure and outbreaks. This makes workplaces the key point of intervention where the strongest mitigation measures are needed. Comprehensive workplace protections are necessary for Virginia workplaces to remain open as we continue to address waves of infections and hospitalizations surging through communities.

We strongly urge the Safety and Health Codes Board to maintain strong provisions in the final permanent standard for COVID-19 that reflect the aerosol nature of this virus and ensure all workers are adequately protected from exposure to COVID-19 on the job. In light of the highly contagious Delta variant, rapid increase in cases and CDC's latest guidance issued on July 27, 2021, which recommends stronger protections for vaccinated individuals, DOLI should present the Board with a new draft of the revised standard as many of the proposed revisions are no longer relevant at this stage in the pandemic.

Workplace protections continue to be vital to preventing the spread of COVID-19.

Sixteen months into the pandemic, we know much more about the SARS-CoV-2 virus, COVID-19 and the continued need for protections for all workers. During this time, it has been soundly established that the virus is aerosolized and can spread through the air distances beyond six feet through talking, breathing, coughing or sneezing. Indoor, poorly ventilated spaces where individuals share the same air—workplaces—continue to be where the virus easily spreads, one case rapidly turning into an outbreak. Vaccinations are widely available throughout the nation and are a critical long term measure to end the pandemic, but vaccination rates remain low among working age adults in the U.S., breakthrough infections continue to rise where transmission is high, and evidence shows that vaccinated people carry the same viral load as unvaccinated individuals, making vaccinations insufficient to control the virus spread and mitigation measures critical.

The United States and Virginia are experiencing few hospitalizations and deaths among the vaccinated; however, the risk for unvaccinated individuals is increasing with the spread of more transmissible variants. The percentage of adults vaccinated in Virginia varies widely by locality. As of mid-July, many Virginian localities still have less than 50% of adults fully vaccinated, largely in south and southwest Virginia. The Delta variant is sweeping through areas with low vaccination rates and the number of cases is rising in all 50 states, compared to the all-time lows in June and early July. Daily COVID-19 cases in Virginia are now six times more than they were in May.[1] The situation is worsening.

On July 27, 2021, the CDC revised their guidance again due to the high rates of transmission of the Delta variant, once again recommending masking in indoor public spaces for all individuals, regardless of vaccination status, in areas of high or substantial transmission.[2] To date, more than 70 counties in Virginia are areas of high or substantial transmission, a number that is increasing rapidly.[3] This guidance also was issued as new data from outbreak clusters showed that infected vaccinated individuals carry the same viral load as infected unvaccinated individuals, even though breakthrough infections usually do not result in severe symptoms.[4] Breakthrough infections are not uncommon and it is unclear the long term effect of breakthrough infections, especially as the Delta variant surges and additional variants of unknown transmissibility and morbidity develop. In places with especially high exposures, breakthrough infections are more common; recent CMS data show that 68% of infections in nursing home residents are among vaccinated individuals.[5]

While the vaccine is extremely effective at reducing severe symptoms, hospitalization and death, vaccines alone are not sufficient to adequately control the spread of COVID-19. A recent study confirms that even with vaccinations, new variants will continue to spread and that even with high levels of vaccination, relaxation of other mitigation measures will enhance transmission.[6] The authors' recommended maintaining non-pharmaceutical interventions and transmission-reducing behaviors throughout the entire vaccination period.

In the current state of the pandemic, comprehensive protections that include multiple exposure prevention strategies reflective of current transmission science must continue to be implemented in workplaces—vaccines and masks are not enough to protect individuals from the high rates of transmission and airborne nature of this virus. Comprehensive protections include strong ventilation requirements, adequate respiratory protection, adequate distancing, worker training, immediate removal of cases from the workplace, and early identification, reporting and employee notification of cases and outbreaks, regardless of vaccination status.

As workers continue to be at increased risk of exposure to COVID-19 and in light of the new CDC guidance, we support the Safety and Health Codes Board (the Board) continuing to ensure that all workers have protections from exposure to COVID-19. The Board should examine the new CDC guidance which accounts for the current emergency situation, the transmissibility of the Delta variant and the viral load that can be carried by vaccinated individuals and ensure that any amendments to the Virginia Final Permanent Standard reflect this guidance.

In adopting the federal emergency temporary standard (ETS) for health care and support workers, they should amend the language to reflect the current CDC guidance in addition to the ETS. The guidance now recommends that vaccinated individuals with a known exposure to an infected person

with COVID-19 should isolate and be tested. This is a change from the federal ETS and in light of the new data, Virginia should ensure that all vaccinated and unvaccinated workers are removed from work to prevent the spread of the virus. Additionally, we support the Board ensuring that health care worker protections from COVID-19 do not lapse even if something changes in the federal ETS. These workers have been on the frontline of the pandemic from the first days, are currently fighting to save lives against the Delta variant and will continue to be exposed to COVID-19 even when the risks for others outside of health care might be reduced.

Any amendments to the standard must ensure workers remain protected in the workplace from COVID-19 exposures, illness and death.

We support many of the Board's proposed amendments to the Virginia Final Permanent Standard for COVID-19 as it ensures all employers must work together with workers and their representatives to conduct a hazard assessment to identify and mitigate the risks of exposure. The Board should work diligently to incorporate principles from the most recent CDC guidance that supports multiple prevention strategies that the standard requires based on the risk level and not solely vaccination status. However, several proposed revisions would significantly weaken worker protections from COVID-19, placing them at grave risk from the Delta variant, and must be addressed before any revised standard is issued.

The standard must continue to be the minimum level of COVID-19 protection in workplaces and not permit voluntary public-based CDC guidance as a substitute for workplace protections.

The proposed revised final permanent standard maintains the final permanent standard language that allows employers to follow CDC guidance instead of the standard, but only when the guidance provides equivalent or greater protection than provided by the standard. This ensures that employers have to follow a similar set of baseline workplace requirements throughout the standard, while having flexibility to adhere to updated protective guidance as necessary.

However, a new amendment proposed by the state would eliminate the language that maintains strong baseline protections from an airborne virus, permitting employers to follow CDC guidance even if it is weaker than Virginia's standard. This not only undermines the intent of the standard to protect all workers with clear enforceable workplace safety measure-s, but allows federal guidance to supersede state OSHA authority, which is wrong.

It is vital that employers are not allowed to follow any CDC guidance instead of the standard as the CDC has hundreds of guidelines and many have not been updated to include current science and are weaker than the proposed revisions to the final permanent standard. On May 7, 2021, the CDC issued a scientific brief on airborne transmission, yet many of their COVID-19 workplace guidelines have not been updated to reflect this information. For example, the meatpacking guidance hasn't been updated since it's creation in May 2020, does not recognize airborne exposure and is filled with unenforceable language of "if possible." The final permanent standard recognizes airborne transmission and the significance of ventilation, air filtration and appropriate respiratory protection. If the Board were to vote to accept the new amendment, it would allow employers to follow CDC guidance that does not recognize the significance of airborne transmission or recommend control measures to address this transmission route, leaving workers at significant risk.

The current language in the proposed revised standard stating, "provided that the CDC recommendation provides equivalent or greater protection than provided by a provision of this standard," has been supported and voted on by the Board multiple times as the emergency temporary standard and final permanent standard language was promulgated and adopted. VOSH also has stated that this language has been useful to the agency and they have been able to address CDC guidance that offers greater protections through their FAQs. The current language, quoted above, has been in effect since July 2020 and must be maintained and not be weakened by the Board or the Governor's office.

The state must remove the arbitrary distinction of vaccination status as a basis of employer size for the written plan requirement.

The final permanent standard requires all employers in higher risk, non-healthcare, workplaces with 11 or more employees to have a written plan. However, the revised final permanent standard includes exempting language "[i]n counting the number of employees, the employer may exclude fully vaccinated employees." This exempting clause must be eliminated from the final revised standard.

The requirement to have a written plan must be based solely on exposure risk and the business size exclusion should remain based solely on the number of total employees since all employees are still at risk of being infected and spreading the virus to others, whether or not they are vaccinated. The exception clause would allow for large employers in workplaces with high risk factors of COVID-19 exposure to claim that their workforce is fully vaccinated and therefore not required to have a written plan. There is nothing in the standard that requires employers to determine vaccination status, and states that employers can rely on what employees present. If the standard included this exemption clause, and employers did take action to determine if they have fewer than 11 employees unvaccinated, it would create a recordkeeping nightmare for employers to collect and store information covered under HIPAA and be especially difficult for employers in high-turnover industries.

The data released with the July 27, 2021 CDC guidance shows that vaccinated people carry the same viral load as unvaccinated individuals, making vaccinations alone insufficient to control the virus spread and additional mitigation measures are critical. Using vaccination status, even if verified by the employer, to exempt employers from having a written plan will allow the virus to continue to spread in workplaces, as it would allow employers not to implement all the additional mitigation measures in the standard.

The exception clause leaves workers at significant risk by not requiring a written plan, no matter the size of the employer or significance of the risk of COVID-19 exposure to these workers. A written plan is essential because it is used to identify tasks where there is exposure to COVID-19, identify the specific control measures that will be used and how they will be implemented, and to have procedures in place to assess that controls are being properly utilized and maintained. Without a written plan there is no assurance that there will be a systematic and comprehensive approach to identifying and controlling COVID-19 exposures at the workplace.

It has been suggested that this provision will encourage vaccination. However, allowing an employer not to provide protections does not incentivize vaccination of workers—it only leaves them without protections.

The standard must be continuously in effect to avoid breaks in protections for workers, rather than delaying effective dates for the training and written plan provisions.

The training and written plan provisions have been in effect for almost a year and employers should already be in compliance with those provisions of the standard. Any delay in enforcement dates is effectively a halting of essential provisions and there is no reason to give employers who have already been subject to compliance with these provisions more time to comply. Starting and stopping the provisions of the standard as the pandemic continues and surges due to the Delta variant will encourage the virus to spread more rapidly.

It has been suggested that newly opened businesses need additional time to come into compliance with these provisions. This argument allows employers who haven't been following the law weeks of a free pass while other employers have ensured that they are following the law and protecting their workers. Additionally, VOSH already has a process in place for helping new businesses come into compliance with current regulations that would be utilized for COVID-19 as in any workplace hazard. Maintaining all the provisions and being clear that employers must have a plan to prevent exposure to COVID-19 on the job and train their workers will keep all workers protected and does not create gaps in protections from employers who are attempting to follow the rules. Viriginia must maintain the standard set of procedures that keep businesses open and safe—the provisions of the Virginia final permanent standard ensures both.

A "good faith" safe harbor provision would weaken workplace protections from COVID-19 exposures and move dangerously beyond the standard practice of OSHA's discretion through enforcement.

The final permanent standard required clear and basic mitigation measures for workplace exposures to COVID-19. These provisions included significant, standardized measures such as exposure assessment and determination, notification requirements, and employee access to exposure and medical records, return to work criteria, and sanitation and disinfection. These provisions have been in place without an expressed issue by the agency for more than a year and have contributed to the reduction of COVID-19 cases in workplaces.

The proposed good faith safe harbor amendment relieves employers of the obligation to comply with these mandatory basic and vital requirements in exchange for an employer policy that includes an anonymous complaint system if all complaints are resolved. Enforcement of the employer's policy that may be weaker than the standard and resolving complaints should not be a substitute for compliance with the standard's provisions. Additionally, there are no recordkeeping requirements for the complaint system and creating those requirements would be complex and burdensome and workers often are incentivized not to issue complaints or report issues. Without requirements of how complaints are being addressed, it is the word of the employer versus the worker.

VOSH already has the ability to use enforcement discretion if an employer is acting in good faith to follow the standard and resolve any complaints or concerns their employees have about their safety. The agency should continue to use their enforcement discretion, but a clause that allows employers to not follow the standard for vague and arbitrary reasons must not be included in the revised final permanent standard for all.

Language addressing PPE shortages is no longer in line with federal authoritative bodies, weakens the protections in the standard, and must be removed.

Respirator and other PPE supplies, stockpiles, and production have increased and are now widely available, and future manufacturing capacity of these supplies is on an upward trajectory in July 2021, compared to 2020. The CDC, FDA and federal OSHA have removed all of their PPE crisis guidance and recommend all employers return to conventional PPE practices.[7]

However, Virginia’s proposed revisions to its final permanent standard includes two provisions that allow the use of face masks instead of appropriate respiratory protection due to PPE shortages. All employers should have provided the necessary PPE to workers and continue to do so when the hazard assessment determines respiratory protection is required. This provision must be completely eliminated from consideration.

SEE RESPONSE TO COMMENT 99371
SEE RESPONSE TO COMMENT 99377
SEE RESPONSE TO COMMENT 99671
DOLI updated its Frequently Asked Questions (FAQ) for the VOSH Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220, in response to the CDC’s updated guidance issued on July 27, 2021. The CDC update resulted in changes to face mask (“face covering” in the VOSH Standard) recommendations for fully vaccinated people in public indoor settings in areas with high and substantial COVID-19 transmission rates:
https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

VDH is updating its transmission metrics which can be found at:
https://www.vdh.virginia.gov/coronavirus/key-measures/pandemic-metrics/

See §40, FAQs 54 and 55, which were directly impacted by the updated CDC guidance.
The FAQs were the result of a review by DOLI and VDH in accordance with 16VAC25-220-10.E, which provides in part:
The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.

Following is a summary of CDC's Morbidity and Mortality Weekly Report (MMWR) of July 30, 2021 titled Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021, which resulted in the CDC update:
Summary of MMWR: "During July 2021, 469 cases of COVID-19 associated with multiple summer events and large public gatherings in a town in Barnstable County, Massachusetts, were identified among Massachusetts residents; vaccination coverage among eligible Massachusetts residents was 69%. Approximately three quarters (346; 74%) of cases occurred in fully vaccinated persons…. Overall, 274 (79%) vaccinated patients with breakthrough infection were symptomatic. Among five COVID-19 patients who were hospitalized, four were fully vaccinated; no deaths were reported….[Certain data] might mean that the viral load of vaccinated and unvaccinated persons infected with SARS-CoV-2 is also similar. However, microbiological studies are required to confirm these findings."
https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm

The Department of Labor and Industry (DOLI) has consulted with the Virginia Department of Health (VDH) about whether REVISIONS should be recommended to the Board's Proposed Amendments to the VOSH Standard originally adopted on June 29, 2021, in response to the CDC's updated guidance for fully vaccinated people issued on July 27, 2021 (requirement in certain situations for fully vaccinated employees to wear face coverings in areas of substantial or high transmission).
https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html

DOLI and VDH are in agreement that some REVISIONS should be recommended to the Board along with the Governor's amendment to 16VAC25-220-10.E.(https://www.doli.virginia.gov/wpcontent/uploads/2021/07/Summary-of-Governor-Northams-Review-of-Proposed-Amendmentsto-16VAC25-220-7.1.2021.pdf).
The Dept. invites the public to comment on the Revised Proposed Amendments to the VOSH Standard by using the Townhall Comment Forum here. The forum will be open for 7 days from August 16, 2021 to August 23, 2021. https://townhall.virginia.gov/L/ViewNotice.cfm?GNid=1309

99715 "Kate Baker Jodi Roth
Government Affairs
Virginia Retail Federation
Submitted Electronically
Virginia Department of Labor and Industry Virginia Retail Federation 7/31/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99715
Repeal Permanent Standard On behalf of Virginia Retail Federation, representing retailers large and small across the Commonwealth, we would like to thank you for the opportunity to comment on the Virginia Department of Labor and Industry's announced intent to amend the Permanent Standard for Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220 (collectively, the "Regulations").

For the last year and half, Virginia employers have committed themselves to protecting their employees, contractors, suppliers, customers, and communities from COVID-19 infection. They have done this by continually updating their COVID-19 protocols to ensure they are complying with the latest regulations and guidance imposed by federal, state, and local regulators. Despite the additional stress, costs and time related to compliance, business leaders and owners understood how critically important it was to do their part to reduce the risk of exposure and spread of the virus.

Virginia retailers need clarity and consistency in any regulatory program and the permanent standard is a static regulatory burden for a pandemic that is temporary, therefore Virginia Retail Federation respectfully asks the Board to repeal the permanent standard.

However, if the Board feels a standard should remain in effect as the pandemic winds down, we strongly encourage the Board to adopt Governor Northam's recommendation to amend Section 16VAC25-220-10.E to provide employers with safeguards should they comply with the most recent CDC guidance. We hope the Board will reconsider and approve the following language change.

E. To the extent that an employer actually complies with a recommendation contained in CDC guidelines, whether mandatory or nonmandatory, to mitigate SARS-CoV-2 virus and COVID-19 disease related hazards or job tasks addressed by this standard, the employer's actions shall be considered in compliance with the related provisions of this standard. An employer's actual compliance with a recommendation contained in CDC guidelines, whether mandatory or non-mandatory, to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by a provision of this standard shall be considered evidence of good faith in any enforcement proceeding related to this standard. The Commissioner of Labor and Industry shall consult with the State Health Commissioner for advice and technical aid before making a determination related to compliance with CDC guidelines.

By approving the Governor's recommendation to 16VAC25-220-10.E, you will enable employers to return their focus where it belongs — on best practices as they are recommended in real time by the CDC.

SEE RESPONSE TO COMMENT 99342
SEE RESPONSE TO COMMENT 99371
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SEE RESPONSE TO COMMENT 99484
SEE RESPONSE TO COMMENT 99520
SEE RESPONSE TO COMMENT 99671

99716 anonymous 7/31/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99716

Repeal 16VAC25-220 in its entirety Repeal Permanent Standard for Infectious Disease Prevention: 16VAC25-220 Standard in it's entirety. People and employers are capable of handling their own health matters.

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99717 anonymous 7/31/2021
https://townhall.virginia.gov/L/ViewComments.cfm?CommentID=99717

Repeal all mandates Repeal all these mandates which are targeted at dividing us and have absolutely no proof of keeping anyone safe. There are many scientific studies which are peer reviewed and prove that masks do not protect from viruses. The jab is experimental. We are not guinea pigs. The Constitution is still in effect and provides freedom in all situations. What we chose to do for our families is our choice not a government mandate. Repeal these mandates immediately!

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