

**FINAL
SAFETY AND HEALTH CODES BOARD
EMERGENCY ELECTRONIC MEETING
Tuesday, June 29, 2021**

On June 29, 2021, the Safety and Health Codes Board (“Board”) held an emergency electronic meeting pursuant to the budget language as amended by Chapter 1289 of the 2020 Acts of Assembly that states:

Notwithstanding any other provision of law, any public body, including any state, local, regional, or regulatory body, or a governing board as defined in § 54.1-2345 of the Code of Virginia may meet by electronic communication means without a quorum of the public body or any member of the governing board physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location; (ii) the purpose of meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body or common interest community association as defined in § 54.1-2345 of the Code of Virginia and the discharge of its lawful purposes, duties, and responsibilities; (iii) a public body shall make available a recording or transcript of the meeting on its website in accordance with the timeframes established in §§ 2.2-3707 and 2.2-3707.1 of the Code of Virginia; and (iv) the governing board shall distribute minutes of a meeting held pursuant to this subdivision to common interest community association members by the same method used to provide notice of the meeting.

Given the nature of the emergency, that COVID-19 spreads easily from person to person who remain unvaccinated, the Board held an electronic meeting utilizing **WebEx**.

Notice of the meeting was provided to the public as required by VA Code §2.2-3708.2 and Executive Order 14 (2018). The notice invited the public to witness the meeting remotely via **WebEx**. Notice was provided on the Virginia Regulatory Townhall’s website here:

<https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=32669>.

The Board members and Department staff listed below as “participating” were all participating via WebEx. There was no quorum of Board members *physically* assembled at one location. There was a quorum of Board members participating on WebEx for purposes of the meeting.

A recording of the meeting in its entirety is available here: <https://www.doli.virginia.gov/wp-content/uploads/2021/06/SHCB-Emergency-Meeting-20210629-1320-1.mp4>

BOARD MEMBERS

PARTICIPATING:

Ms. Milagro Rodriguez, Chair
Ms. Elizabeth (“Beth”) Lohman
Mr. Louis J. Cernak, Jr.
Mr. John Fulton
Mr. Phil Glaize, participated for parts of the meeting, absences noted
Ms. Tina Hoover, participated for parts of the meeting, absences noted
Ms. Anna Jolly
Mr. Courtney Malveaux, participated for parts of the meeting, absences noted
Mr. Travis Parsons

Mr. Charles Stiff, Vice Chair
Mr. Thomas Thurston
Mr. Michael Luce
Ms. Julie Henderson

BOARD MEMBERS ABSENT: Mr. Kenneth Richardson, II

STAFF PARTICIPATING: Mr. C. Ray Davenport, Commissioner of Dept. of Labor & Industry
Mr. William P. Burge, Assistant Commissioner
Mr. Jay Withrow, Director, Legal Support, BLS, VPP, ORA, and OWB
Ms. Princy R. Doss, Director, Policy, Planning, & Public Information
Ms. Marta Fernandes, VOSH Safety Compliance
Ms. Jennifer Rose, Director Cooperative Programs
Mr. Richard White, IT Director
Ms. Holly Trice, Senior Staff Attorney
Mr. Alex West, Senior Staff Attorney
Ms. Cristin Bernhardt, Staff Attorney

OTHERS PARTICIPATING: Mr. Joshua Laws, Assistant Attorney General
Ms. Lisa Wright, Court Reporter, Chandler & Halasz, Stenographic Court Reporters

CALL TO ORDER

Chair Rodriguez called the emergency electronic meeting to order at 9:15 a.m. A quorum was present. Chair Rodriguez made opening remarks informing the public that this emergency meeting was an electronic meeting, held under Va. Code Section 2.2-3708.2, and using WebEx to allow panelists (Board members and DOLI staff) and participants to listen to the meeting by internet or telephone.

Chair Rodriguez announced that Commissioner Oliver of the Department of Health submitted a letter to her, authorizing Julie Henderson to be his designated representative for the June 29, 2021 meeting. This letter shall be part of the permanent minutes. Chair Rodriguez also announced Director David K Paylor of the Department of Environmental Quality submitted a letter to her, authorizing Elizabeth (Beth) Lohman to be his designated representative for the June 29, 2021 meeting. This letter shall also be part of the permanent minutes.

APPROVAL OF AGENDA

Chair Rodriguez asked the Board if there was any discussion on the agenda. There was none. Chair Rodriguez asked if there was a motion to approve the agenda. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 00:08:04

#1 Approval of Agenda	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth (“Beth”) Lohman	1				
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

PUBLIC COMMENT

After approval of the agenda, Chair Rodriguez announced that a number of members of the public had signed up to offer their comments to the Board. The public was given the opportunity to address the Board on the issues pending before the Board that day, as well as any other topics that may be of concern to the Board and within its scope of authority. All of the commenters presented comments on the proposed amendments to the Final Permanent Standard (FPS), for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220. Below is a list of all the commenters who presented to the Board.

Robert B. Melvin	Virginia Restaurant, Lodging, & Travel Association	Director of Government Affairs
Nicole Riley	National Federation of Independent Business	Virginia State Director
Kyle Shreve	Virginia Agribusiness Council	Executive Director
MK Fletcher	AFL-CIO	Safety and Health Specialist
Debbie Berkowitz	National Employment Law Project	Worker Health & Safety Program Director
Jodi Roth	Virginia Retail Federation	Government Affairs
Marcia Tetterton	Virginia Association for Home Care and Hospice	Executive Director
Vanessa Patterson	Richmond Area Municipal Contractors Association	Executive Director
Mike Wilson	United Food and Commercial Workers, Local 400	Executive Assistant to the President

NEW BUSINESS

Next, Chair Rodriguez moved onto new business, item 4a-- Consider for adoption federal OSHA's Occupational Exposure to COVID-19, Emergency Temporary Standard (COVID-19 ETS), 1910.502, et. seq. Chair Rodriguez recognized the Department and introduced Jay Withrow, Director of Legal Support to present the briefing package for the COVID-19 ETS.

During the briefing by Director Withrow, there was a **10 MINUTE RECESS at 10:58 a.m.; RECONVENE 11:15 a.m.**

After Director Withrow completed presenting the briefing package on the COVID-19 ETS, Chair Rodriguez asked for someone to make a motion to adopt the COVID-19 ETS and to accept Department's recommendations along with Chair Rodriguez' slight amendments to language. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 02:17:36

#2 Motion to adopt the COVID-19 ETS and to accept Department's recommendations with Chair Rodriguez' amendments to language (Maintained, modified...)	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton		1			
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover		1			
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	9	2	1	2	

Chair Rodriguez then called for the next item, item 4b—to consider Proposed Amendments to the Final Permanent Standard (FPS), for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220. Chair Rodriguez recognized Director Withrow again. Before discussing the standard, Director Withrow presented a briefing package on the proposed amendments to the FPS. The Board asked various clarifying questions throughout the presentation.

During the briefing by Director Withrow, there was a **30 MINUTE RECESS for Lunch at 12:45 p.m.; RECONVENE 1:15 p.m.**

At 1:15 p.m., Chair Rodriguez reconvened the meeting and recognized Director Withrow from the Department who finished presenting the briefing package on the proposed amendments to the FPS.

The Department prepared a document entitled COMBINED BOARD AMENDMENTS of REVISED Final Permanent Standard 16VAC25-220, DRAFT 6.29.2021." (combined board document) This document is attached to the agenda for the June 29, 2021 Emergency Electronic Meeting which is available on the Regulatory Townhall site here:

https://townhall.virginia.gov/L/GetFile.cfm?File=meeting\92\32669\Agenda_DOLI_32669_v6.pdf

This document combined a few amendments the board members had introduced into one document as well as revisions the Department and the Administration wished to make. References to certain page numbers in motions that were made during this meeting, reference the page numbers of the above listed document.

The Department moved to page 3 of the combined board document and discussed the Departments' highlighted recommended changes as well as Chair Rodriguez' amendment on page 4.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation on page 3 and Chair Rodriguez amendment on the top of page 4. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 04:16:52

#3 Motion to accept Dept. recommendation on page 3 and Chair Rodriguez' amendment on top of page 4	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton			1		
Mr. Phil Glaize	1				
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff				1	
Mr. Thomas A. Thurston	1				
TOTALS	9		2	3	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes highlighted on the bottom of page 5 and the top of page 6 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 04:24:11

#4 Motion to accept Dept's highlighted changes on page 5 and top of page 6 of combined board document	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Chair Rodriguez called for the next item. The Department moved to the Department's suggested change to section 10.E on page 6 of the combined board document.

Member Parsons made a motion to reject the Department's recommended changes in Subsection 10.E on page 6 and to keep the language as written in the current FPS. (motion #5) Member Malveaux then made a substitute motion to accept the changes to 10.E on page 6. (motion #6)

There was then a question posed as to how to proceed with a main motion and a substitute motion under Robert's Rules of Order. Chair Rodriguez recognized Josh Laws, Assistant Attorney General (AAG Laws) to speak. AAG Laws explained that a main motion and two substitute motions are allowed on the floor at one time. If a substitute motion passes, it kills the main motion. If the substitute motion fails, it would bring back up the main motion. Board Member Cernak then asked some clarifying questions as to how the process worked.

Chair Rodriguez asked if Board Member Malveaux's motion had a second. The motion was made, properly seconded, and a roll call vote was conducted. The motion was defeated.

Meeting Recording Time of Vote: 04:49:41

#6 Board Member Malveaux's Motion to accept the Dept's language in 10.E on page 6	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.		1			
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce		1			
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston		1			
TOTALS	6	6		2	

Chair Rodriguez then turned back to Board Member Parson's main motion and prepared to take a vote on it. Board Member Cernak then asked why the Board would need to vote on the main motion. (motion #5) AAG Laws stated that the main motion was still on the floor. There was a discussion as to whether there was a need for a vote on the main motion. AAG Laws explained that the main motion was still live and had been properly seconded so a vote should be taken unless Board Member Parsons withdrew his motion. Board Member Parsons then withdrew his motion (motion #5) and the language of the standard in 10.E did not change.

Chair Rodriguez called for the next item. The Department moved to pages 6-8 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation on pages 6-8. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 05:07:21

#7 Accept Dept's recommendation of changes on pages 6-8	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				

Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Chair Rodriguez called for the next item. Director Withrow moved to Chair Rodriguez' proposed amendments striking the 30 and 60 day effective dates in Sections 20.C. and 20.D. on pages 8-9 of the combined board document. Chair Rodriguez spoke to her amendment and made her motion. The motion was made, properly seconded, and a roll call vote was conducted. The motion failed.

Meeting Recording Time of Vote: 05:16:08

#8 Chair Rodriguez' motion on pgs. 8 and 9 to strike language in Section 20.C and 20.D	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman		1			
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton		1			
Mr. Phil Glaize		1			
Ms. Julie Henderson		1			
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce		1			
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff		1			
Mr. Thomas A. Thurston	1				
TOTALS	5	6		3	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes highlighted on the top of page 9 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 05:19:49

#9 Dept recommendation to accept highlighted language in section 20.C. and 20.D on 9 of combined board document	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				

Mr. Louis J. ("Lou") Cernak Jr.		1			
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston		1			
TOTALS	6	4	1	3	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes highlighted from the bottom of page 9 through page the top of page 16 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 05:27:27

#10 Dept. recommendation to accept changes on pages 9-top of page 16 of combined board document	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize	1				
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	11	0	0	3	

After the vote on motion #10, the Chair called for a recess. **10 MINUTE RECESS at 2:49 p.m.;**
RECONVENE 3:00 p.m.

Chair Rodriguez reconvened the meeting at 3 p.m. and called for the next item by the Department. The Department recommended the Board accept the changes highlighted on pages 16-23 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 05:47:52

#11 Dept. motion to accept changes on pages 16-23 of combined board document	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes highlighted on page 24 of the combined board document. This motion contemplated changes to Subsection 40.A.

Board Member Parsons did not like that the Department had added references to "good faith" in 40.A. The Board members discussed this subsection thoroughly and Board Member Parsons made a motion to delete the third proposed sentence of subsection 40.A and to add back "Employers shall ensure compliance with the requirements in this section to protect employees from workplace exposure to the SARS-CoV-2 virus that causes COVID-19 disease."

The motion was made, properly seconded, and a roll call vote was conducted. The motion failed.

Meeting Recording Time of Vote: 06:12:52

#12 Member Parsons motion to delete 3rd sentence of proposed subsection 40.A and add sentence	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman		1			
Mr. Louis J. ("Lou") Cernak Jr.	1				

Mr. John D. Fulton		1			
Mr. Phil Glaize				1	
Ms. Julie Henderson		1			
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce		1			
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff		1			
Mr. Thomas A. Thurston	1				
TOTALS	5	5		4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes highlighted at the top of page 24 of the combined board document that concerned subsection 40.A.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 6:16:38

#13 Dept. Motion to accept changes at top of page 24 to Subsection 40.A as written	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.		1			
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston		1			
TOTALS	6	4	0	4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes highlighted starting with changes made to subsection 40.B on page 24 through to changes made to 40.C.3 on page 29 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 06:23:29

#14 Dept. motion to accept changes to 40.B on page 24 through changes to 40.C.3 on page 29	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes highlighted to Subsection 40.C.4 through changes made to Subsection 40.E.3, located on pages 29-30 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 06:27:38

#15 Dept. motion to accept changes to Subsections 40.C.4 through Subsection 40.E. 3 (pgs. 29-30)	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	

Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes highlighted made to Subsection 40.F on pages 30-32 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 06:35:22

#16 Dept. motion to accept changes to Subsection 40.F	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes made to Subsection 40.G through Subsection 40.J, highlighted on pages 32-35 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 06:40:10

#17 Dept. Motion to accept changes made to Subsection 40.G through 40.J on pages 32-35	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				

Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes to the rest of section 40, subsections 40.K through 40.L.11, highlighted on pages 35-37 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 06:46:04

#18 Dept. Motion to accept changes to Subsection 40.K through 40.L.11, pgs. 35-37	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes made to Subsections 50.A through 50.C, to include Chair Rodriguez' motion to add language to Subsection 50.A.3, found on pages 39-44 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 06:54:26

#19 Motion to accept changes made to Subsection 50.A to 50.C, to include language additions amendment by Chair Rodriguez, pgs 39-44	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	11	0	0	3	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes made to Subsection 50.D to include the amendment made by Board Member Parsons of subsection 50.D, found on page 46 of the combined board document.

The Department noted a typo in the amendment by Board Member Parsons and clarified it was to say "selection" no "section."

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 07:00:18

#20 Dept. motion to accept changes made to Subsection 50.D to include Board Member Parsons' amendment to 50.D (pg 45)	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				

Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	9	0	0	5	

After the vote on motion #20, the Chair called for a recess. **10 MINUTE RECESS at 4:22 p.m.;**
RECONVENE 4:32 p.m.

Chair Rodriguez reconvened the meeting at 4:32 p.m. and called for the next item by the Department. The Department recommended the Board accept the changes to Subsection 60.A. to include the amendment by Chair Rodriguez to change the language in the Section 60 title, found on page 47 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 07:17:56

#21 Dept. motion to accept changes to 60.A on page 47 to include Board Chair Rodriguez' amendment to language in title of Section 60	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

Chair Rodriguez called for the next item by the Department. The Department introduced Board Member Parsons' amendment to add some language to subdivision 2 to subsection 60.A. found on page 48 of the combined board document. Board Member Parsons spoke to his amendment and made his motion.

The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.
Meeting Recording Time of Vote: 07:27:21

#22 Board Member Parsons motion to add language to subdivision 60.A.2 on pg 48	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman		1			
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson		1			
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	8	2	0	4	

Chair Rodriguez called for the next item by the Department. The Department introduced Board Member Parsons' amendment to add a new subdivision 60.A.3, found at the bottom of page 48 of the combined board document. Board Member Parsons spoke to his amendment and made his motion. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 07:24:23

#23 Board Member Parsons amendment to add a subdivision 60.A.3 (pg 48)	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman		1			
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson		1			
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff		1			
Mr. Thomas A. Thurston	1				

TOTALS	7	3	0	4	
--------	---	---	---	---	--

Chair Rodriguez called for the next item by the Department. The Department introduced Board Member Parsons' amendment to strike "cough or sneeze" from the Department's recommended language in subdivision 60.A.3 (now renumbered as 4), found at the top of page 49 of the combined board document.

Board Member Parsons spoke to his amendment and made his motion. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 07:27:56

#24 Board Member Parsons amendment to strike "cough or sneeze" from Subdivision 60.A.3 (renumbered as 4)	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10			4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes to subdivision 60.A.4 (now reordered as 5) through subdivision 60.D.4, found on pages 49-53 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 07:36:18

#25 Dept. motion to accept changes from subdivision 60.A.4 (now reordered as 5) through subdivision 60.D.4 on pgs. 49-53	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				

Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

Chair Rodriguez called for the next item by the Department. The Department began discussion of the proposed changes to Section 70. Board Member Parsons did not like some of the language proposed by the Department in Subdivision 70.A.2 (found on page 54 of the combined board document) and made a motion to strike the sentence, "In counting the number of employees, the employer may exclude fully vaccinated employees" from proposed Subdivision 70.A.2.

The motion was made, properly seconded, and a roll call vote was conducted. The motion failed.

Meeting Recording Time of Vote: 07:48:12

#26 Board Member Parsons motion to strike 2nd sentence of proposed Subdivision 70.A.2 (page 54)	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman		1			
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton		1			
Mr. Phil Glaize				1	
Ms. Julie Henderson		1			
Ms. Tina Hoover				1	
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux		1			
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff		1			
Mr. Thomas A. Thurston	1				
TOTALS	4	6		4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes made to Section 70, found on pages 54-57 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 07:50:04

#27 Dept. motion to accept changes to Section 70 found on pages 54-57	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

Chair Rodriguez called for the next item by the Department. The Department recommended the Board accept the changes made to Section 80, found on pages 58-61 of the combined board document.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 07:54:55

#28 Dept. Motion to accept changes to Section 80 found on pages 58-61	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				

TOTALS	10	0	0	4	
--------	----	---	---	---	--

Chair Rodriguez called for the next item by the Department. The Department turned back to the briefing package to the FPS to read out the Department's recommended action on page 108 of the briefing package.

Before the Department could read out the final recommendation, Board Member Malveaux asked if the Board was following the Administrative Process Act (APA). Director Withrow explained that the proposed changes were being pursued under Va. Code 40.1-22(6a) to which the APA does not apply. That being said, the Board and the Department were attempting to follow the core requirements of the APA as much as possible, taking into consideration the time constraints placed upon the Board and Department.

Board Member Malveaux discussed his interpretation of Va. Code 40.1-22(6a). Board Member Malveaux asked if the Department felt it had the legal authority to act in this way and Director Withrow responded that it did. Board Member Malveaux announced that after the vote on this motion, he would want to make another motion.

Director Withrow then read out the Department's recommended action on page 108 of the briefing package to the FPS.

Chair Rodriguez asked if someone would make a motion to accept the Department's recommendation. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Meeting Recording Time of Vote: 08:05:08

#29 Motion to accept Dept. Final Recommend Action	Yea	Nay	Abstain	Absent	Other
Ms. Elizabeth ("Beth") Lohman	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Julie Henderson	1				
Ms. Tina Hoover				1	
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce				1	
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II				1	
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	0	0	4	

After the final vote on the proposed amendments to the FPS, Board Member Malveaux stated he wanted to repeal the final permanent standard and adopt the federal ETS. Director Withrow asked Board Member Malveaux if Board Member Malveaux was suggesting that Virginia adopt the ETS and apply it to all

employers in Virginia. Board Member Malveaux stated that he meant he just wanted to repeal the final permanent standard. Board Member Malveaux then stated the repeal of the final standard should be on the agenda for the next board meeting.

Chair Rodriguez then stated item 4 was complete and moved onto item 5; items of interest from the Department of Labor and Industry.

Items of Interest from the Department of Labor and Industry

Chair Rodriguez asked if there were any items of interest from the Department of Labor and Industry. Chair Rodriguez recognized the Commissioner. Commissioner Davenport thanked all the Board members and Department staff for all its hard work.

Items of Interest from Members of the Board

Chair Rodriguez thanked the Department for all the work they put in to make the meeting happen quickly. The Chair also thanked the Board members for their hard work. Board Member Fulton expressed his gratitude to the Department for its work to bring the meeting together quickly.

Meeting Adjournment

There being no further business, Chair Rodriguez adjourned the meeting at 5:36 p.m.