



Richmond Area Municipal Contractors Association

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Submitted Electronically

Jay Withrow, Director
Division of Legal Support, ORA, OPPPI, and OWP
Virginia Department of Labor and Industry
600 E. Main Street, Suite 207
Richmond, VA 23219

RE: Comments on behalf of the Richmond Area Municipal Contractors Association (RAMCA)
VA Department of Labor and Industry, Safety and Health Codes Board
Permanent Standard for Infectious Disease Prevention: SARS-CoV-2 Virus That Causes
COVID-19, 16VAC25-220

Mr. Withrow,

The Richmond Area Municipal Contractors Association (RAMCA) represents companies in heavy construction and their associate partners who provide products and services to the industry. For 55 years, RAMCA has worked cooperatively on a broad range of important issues relating to the infrastructure needs of the Commonwealth. RAMCA provides a forum designed to improve the business practices and the construction environment in which our employees work. The health and safety of our employees is our highest priority. On behalf of RAMCA, I oppose adopting a Permanent Standard for Infectious Disease Prevention: SARS-CoV-2 Virus that Causes COVID-19, 16VAC25-220.

- Construction is an essential industry. As such, our members have been performing critical work from the onset of the pandemic. The health and safety of all employees and the community around us is the top priority of our companies. Promoting a culture of safety is a primary operating principle of our employers. The industry, already regulated under multiple federal and state occupational health and safety programs, began implementing CDC and OSHA Guidelines for COVID-19 in the construction workplace as soon as they were published.
- Virginia's Emergency Temporary Standard (ETS) for COVID-19 became effective four and a half months after the State of Emergency was declared and ensuing Executive Orders took affect. During those months, the construction industry implemented critical safety measures to ensure the health of their employees. The federal guidelines for construction were working.
- What was believed to be true about the transmission of SARS-CoV-2 virus in April, when the ETS was proposed to the Administration, has changed, rendering the ETS outdated. As the ETS was not effective until July 27, 2020, our industry had long been operating successfully under the CDC and OSHA guidelines.

- As the science has changed, the ETS has not, nor do they have the flexibility to do so as either science changes or innovation occurs. As an example, the disinfection standard requirements are based on practices that now may not provide meaningful reduction in transmission. The disinfection standards for tools and equipment are burdensome and time consuming. An hour a day or more is spent by each crew in some cases. Procurement of necessary disinfection items is time consuming, distracts from other job functions, and supply chain issues still impact the ability to obtain disinfectant approved for use against SARS-CoV-2 as defined in 16VA25-220-30.
- The cost to the industry, employing 184,490¹ Virginians, to train all employees on the symptoms of COVID-19 and transmission of the SARS-CoV-2 Virus (16VAC25-220-80) at a mean hourly wage of \$24.49² for an average of one hour, is an industry wide expense of \$4.5M. After four and half months of Virginians living during the pandemic with the nonstop coverage, the symptoms and transmission information were widely known rendering this requirement unnecessary.
- The cost to the industry of the training requirements of the Infectious Disease Preparedness and Response Plan (16VAC25-220-70), for all 184,490 employees for an additional hour is an added \$4.5M expense for an industry-wide total of \$9.0M of training expenses. This does not include the cost of time and labor to create individual company plans of approximately 40 hours by a supervisory level employee. To have placed this financial burden on the industry is unconscionable, particularly during a time of high unemployment in the state due to business closures mandated by Executive Orders from the administration. The industry has a critical shortage of qualified workers and those funds could be spent training and hiring unemployed workers. The industry would have been better served investing those funds in workforce development and training programs such as the Heavy Equipment Operator (HEO) programs in the community college system that serves as a pipeline of candidates for well-paying jobs in heavy construction. \$9.0M is a year of salary for 180 new employees including tuition reimbursement for the 12-week certification.
- The ETS require non-medically trained individuals to be in the health screening business. Daily screenings add another 30 minutes at the start of a shift. Multiply that by every shift of every crew and less work is being accomplished across the Commonwealth. Individuals must take accountability for their own health and not report to work if they are exhibiting symptoms of COVID-19. It's been over six months; Virginians should be very well aware of COVID-19 symptoms. RAMCA member companies have generous paid sick leave policies that cover COVID-19 absences. This relieves the employee of being forced to choose between working and staying home. These daily screenings take crew leaders away from performing their other job duties, impacting overall productivity.
- The nature of the construction bidding process did not allow companies to properly bid jobs to include the increased costs of disinfecting materials, man hours spent cleaning and the man hours necessary to perform health screenings. If these burdensome standards become permanent and lack the flexibility to change with the science, future bids will include these increased costs of doing business, ultimately increasing costs of future projects for the Commonwealth.

- Construction job tasks falls into the “Low” and “Medium” (16VAC25-220-30) exposure category. The ETS use “Grave” danger to regulate **ALL** businesses in Virginia, yet the great majority of deaths in the Commonwealth were patients over 70 years old. On September 23rd, 2020 the Virginia Department of Health (VDH) Dashboard reported 79% or 2269 of the 2882 reported deaths were 70+. It is unlikely many of those over the age of 70 were actively still in the workforce. Of the total 2882, the remaining 613 deaths over the 6 month period represent a .007% death rate in Virginia based on the population of 8,536,000³. Further as of September 23rd, 54% or 1556 deaths were patients in long-term care and correctional facilities. As not all of the 1556 deaths fall into the over 70 category, it is likely that less than 613 deaths were *potentially* working Virginians. Employment data or how and where exposure occurred is not included in the reporting.
- With the likely death rate for working Virginians to be less than .007%, the definition of “Grave” danger used to regulate **ALL** businesses in Virginia, must be reviewed. There is no empirical evidence that “Low” and “Medium” risk workplaces present a “grave” danger to employees. In fact, as the ETS has been in place for less than 2 months, the CDC and OSHA guidelines the Construction industry has been using for the past six months have effectively protected the health and safety of our workers.

Further, I am firmly opposed to any amendment to include other flus, viruses, cold or other communicable diseases in any permanent standard. There is no one-size fits all plan to combat a wide variety of infectious illnesses.

The ETS is burdensome, obsolete, difficult to enforce, costly in time and money, and lacks the flexibility to adapt to current science and innovation. I am strongly opposed to the adoption of these as a Permanent Standard for what is a temporary health emergency.

The construction industry remains committed to the safety of our workers and the citizens of the Commonwealth. I welcome the opportunity to work with all stakeholders to develop any necessary policies regarding the health and safety of workers in the construction industry.

Thank you for the opportunity to publicly comment.

Best Regards,

Vanessa L Patterson

Vanessa L. Patterson
Executive Director

“Digging and Building in Central Virginia for 55 Years”

Cc: Governor Ralph Northam; Virginia General Assembly; Chief of Staff Clark Mercer; Secretary of Commerce and Trade Brian Ball; Chief Workforce Advisor to the Governor Megan Healey; and Commissioner of the Department of Labor and Industry Ray Davenport

¹ U.S Bureau of Labor Statistics 2019 State Occupational Employment and Wage Estimates, Virginia

² U.S Bureau of Labor Statistics 2019 State Occupational Employment and Wage Estimates, Virginia

³ 2019 United States Census Bureau