



**American Federation of State, County and Municipal Employees, AFL-CIO**

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**Re: Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19**

Dear Safety and Health Codes Board:

The American Federation of State, County and Municipal Employees (AFSCME) District Council 20 strongly supports the permanent standard for Infectious Diseases Prevention: SARS-CoV-2 the Virus that Causes COVID-19. The Commonwealth of Virginia has proposed a strong, comprehensive permanent standard to protect workers from the SARS-CoV-2 virus. We strongly urge the Safety and Health Codes Boards and Department of Labor and Industry (DOLI) to adopt the proposed permanent standard with several recommended improvements and to remain vigilant in protecting workers in Virginia.

AFSCME District Council 20 members are on the front lines, keeping our communities running in Virginia. They and other public service workers are hard at work providing emergency services, health care, transportation, sanitation, public safety and other essential services. Many of these workers come in contact with people who are or may be infected by the SARS-CoV-2 virus, thereby endangering themselves and their families. They need adequate and enforceable worker protections to do their jobs safely. Even with vaccines starting to become available, the pandemic is far from over, and workplace controls are needed to mitigate SARS-CoV-2 exposure.

The proposed permanent standard ensures that employers identify how workers could be exposed to COVID-19 in the workplace and have a written plan to control those risks using the hierarchy of controls. The standard also includes strong training provisions, reporting and notification requirements and protections against discrimination.

AFSCME District Council 20 supports the added ventilation provisions in the proposed permanent standard. Since SARS-CoV-2 is an airborne transmissible virus, proper ventilation and increased supply of fresh air are vital to reduce spread indoors. The ventilation requirements reference the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) standards, which will ensure that airborne transmission is addressed in workplaces.

We also support the modification of the return-to-work criteria since workers who experience severe illness may need to be removed from work for an extended period of time. However, the provisions for return-to-work criteria fail to address asymptomatic individuals with COVID-19. Asymptomatic individuals with COVID-19 are a major source of workplace exposure and protective provisions must be included to ensure they do not return until they can no longer infect others. Therefore, workers with COVID-19 exposures should not return to work until:

- A) 14 days have passed since the worker was exposed to a COVID-19 case and the worker has remained asymptomatic during this time period; or
- B) 10 days have passed since the worker was exposed to a COVID-19 case, the worker has remained asymptomatic during this time period, the worker receives a COVID-19 test administered after day five post exposure with a negative COVID-19 test result, and the following conditions are met:

- 1) No clinical evidence of COVID-19 has been observed by daily symptom monitoring during the entirety of quarantine up to the time at which quarantine is discontinued, and
- 2) Daily symptom monitoring continues for 14 days after exposure, and
- 3) Workers should be advised that if any symptoms develop, they should immediately report them to the employer and isolate.

In the proposed standard, the Board has changed the employer reporting requirement to the Virginia Department of Health (VDH) compared to what is required under the emergency temporary standard (ETS). If adopted the proposed permanent standard will require employers to report every instance of outbreaks of two or more employees. AFSCME District Council 20 recommends that the reporting requirements to DOLI be consistent with those of the VDH. That is, employers should be required to report to DOLI within 24 hours of the discovery of 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, instead of DOLI's current practice under the ETS of requiring reporting for the discover of three or more such employees.

AFSCME District Council 20 strongly opposes the delayed effective date of March 26, 2021. Employers have already been complying with the ETS requirements. The extended effective date is an oversight that can cause a lapse in worker protections. Since the ETS will remain in effect only through January 26, 2021, we recommend the permanent standard requirements take immediate effect on January 27, 2021 so that there is no gap in coverage and to avoid confusion within the regulated community.

The Board should add language in the standard to clarify the definition of a face covering. A face covering can provide a means for source control, reducing the spread of virus from the wearer to others, but it is not intended to protect the wearer. A typical example of source control for COVID-19 is to use a mask or face covering to limit the spread of respiratory droplets and aerosols from the wearer to others. Face coverings, however, are not a replacement for strong respiratory protection that workers need when working close to other people for a long period of time.

The Board must reject efforts to weaken worker protections based on respirator availability. VDH has proposed changes to the rule to allow face coverings when respirators are needed. In contrast to a face covering, a respirator protects the worker by filtering out virus particles in the air. Using face coverings instead of respirators substantially increases the risk that workers will be exposed to SARS-CoV-2. Reducing needed protections because of any shortages in supplies must not be in the rule and should be handled through enforcement discretion, as the agency always has. We note that NIOSH recently issued new approval holders and several of those respirator manufacturers report they have respirators in stock for employers to purchase.

The permanent standard will help protect Virginia's workers, their families and the communities they serve. AFSCME District Council 20 urges the Board take immediate action to adopt and enforce the proposed permanent standard. We appreciate the opportunity to provide these comments. If you have any questions, please feel free to contact me.

Sincerely,



Robert Hollingsworth, Interim Executive Director  
AFSCME District Council 20