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June 22, 2020

Ray Davenport, Commissioner
Virginia Department of Labor and Industry
600 E. Main Street
Richmond, VA 23219

ATTN: Commonwealth of Virginia *16 VAC 25-220, Emergency Temporary Standard/Emergency Regulation – Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19* proposal

Submitted via email and via the Virginia public comment forum

Dear Commissioner Davenport,

ORCHSE Strategies, LLC (ORC HSE) welcomes this opportunity to comment in support of the Commonwealth of Virginia *16 VAC 25-220, Emergency Temporary Standard/Emergency Regulation – Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19* proposal.

ORCHSE Strategies, LLC (formerly known as ORC Worldwide and more recently as Mercer HSE Networks) is an international occupational safety, health, and environmental consulting firm that has for nearly 50 years specialized in providing a wide array of services to American businesses. Currently, more than 100 large (mostly Fortune 500) companies in diverse industries are members one or more of ORC HSE's Occupational Safety and Health networks. The focus of these groups is to promote effective occupational safety and health programs and practices in business, to facilitate constructive communications between business and government agencies responsible for establishing national occupational safety and health policy, and to advocate responsible business positions to regulators. The activities of ORC HSE's Occupational Safety and Health networks are based on the premise that providing safe and healthful working conditions is of mutual importance to employers, employees and government agencies.

It should be noted that companies that are members of ORC HSE's Occupational Safety and Health networks may have provided substantial information, opinion, and advice to ORC HSE in the development of its comments. However, the following comments are solely those of ORCHSE Strategies, LLC, and may differ from the views and comments of individual member companies

The reach of SARS-CoV-2 has been broad in nature, and there is no doubt that COVID-19 poses a grave danger to workers. Every ORC HSE member company has been confronted by challenges associated with the COVID-19 pandemic. Their response has consistently been to take the steps necessary to insure adequate worker protection. Many have looked to ORC HSE to provide them with the most current information on implementing high-quality protective measures for their employees. Some have responded with protections that exceed CDC guidelines.

Many of our member companies have operations located in the Commonwealth of Virginia and will be directly impacted by the decision of the Virginia Safety and Health Codes Board and their deliberations to adopt 16 VAC 25-220 for the Virginia Department of Labor and Industry, Virginia Occupational Safety and Health (VOSH) Program.

The following comments pertain specifically to the Commonwealth of Virginia *16 VAC 25-220, Emergency Temporary Standard/Emergency Regulation – Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19* proposal. ORCHSE Strategies urges the Virginia Safety and Health Codes Board to adopt 16 VAC 25-220 for the Virginia Department of Labor and Industry, Virginia Occupational Safety and Health (VOSH) Program.

Workplaces that successfully lower risk are better able to maintain the continuity of their operations. Those that do not suffer employee disease and death, as well as significant disruptions of their operations. Beginning in early 2020, it became evident that workplaces with operations that required them to remain in operation during the pandemic needed quickly to incorporate plans to address COVID-19-related hazards, and to implement stringent workplace controls to reduce the risk of transmission of the SARS-CoV-2 virus among their workers. It was equally evident that workplaces that were not required to remain open would need to develop and implement plans to reopen at some point in the future. Failure to do so would result in outbreaks of COVID-19 with catastrophic effects on the employees at these facilities, their families and their communities. It also became clear that COVID-19 is an occupational health and safety hazard that requires an integrated response.

Many employers were able quickly to coordinate planning as well as adopt and implement controls to limit the spread of COVID-19 within their workforces. The controls implemented were intended to reduce the risk faced by their employees to potential exposure to SARS-CoV-2 at work.

All of our member organizations have faced challenges with some basic elements of their plans due to issues out of their control, such as the shortages of personal protective equipment and N-95 respirators, as well as initial limited supply of disinfecting agents.

Almost universally, ORC HSE member companies across the US have looked to the Federal Government for direction and guidance. The task to respond fell primarily upon the Centers for Disease Control and Prevention (CDC) and local public health departments to make recommendations. Some states also adopted specific requirements for managing the risk.

The COVID-19 pandemic is not over. More than 250 COVID-19-related deaths occur each day in the United States (US). The Commonwealth of Virginia has suffered more than 1,500 COVID-19 deaths to date. Numbers of COVID-19 cases currently are increasing in many parts of the US and the world.

There is no question that the SARS-CoV-2 virus and COVID-19 present a serious and immediate occupational health hazard that necessitates an emergency action by the Virginia Department of Labor and Industry. Small and mid-sized companies struggling for survival may be focused on revenue and may not be aware of the preventive measures that are needed. Consequently, we believe that requiring employers to develop plans, implement proper controls and train their employees is vital to protect workers from this hazard. Implementing this standard or regulation in the Commonwealth of Virginia will provide employers with a clear set of requirements to implement in their workplaces, and where needed, an incentive for doing so.

ORCHSE Strategies, LLC, appreciates the opportunity to comment to the Virginia Department of Labor and Industry. We recognize the effort by the VOSH staff to produce this proposal on short notice. We also applaud the leadership that Virginia is taking to address this serious workplace hazard so that workers, their families and their communities will be protected from COVID-19 outbreaks.

Should you have questions or need additional information, please do not hesitate to contact us.

Sincerely,



Stephen A. Newell, Esq.
Partner

Handwritten signature of Dee Woodhull in black ink.

Dee Woodhull
Partner

Handwritten signature of Scott Madar in black ink.

Scott Madar
Partner

Handwritten signature of Linda J. Haney in black ink.

Linda J. Haney
Partner