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Ms. Princy Doss
Director of Policy, Planning and Public Information
Virginia Department of Labor and Industry
600 E. Main Street, Suite 207 Richmond, VA 23219
princy.doss@doli.virginia.gov

Re: Emergency VOSH Regulations Pertaining to COVID-19 Response from the Virginia Transportation Construction Alliance

Dear Ms. Doss:

On behalf of the Virginia Transportation Construction Alliance (VTCA), we are pleased to submit comments related to Emergency Temporary Standard/Emergency Regulation, Infectious Disease Prevention: SRAS-CoV-2 Virus That Causes COVID-19 (16 VAC 25-220).

VTCA represents over 300 companies and tens of thousands of employees who exclusively plan, design, build, and maintain Virginia's transportation network. Our members build and maintain roads, conduct aggregate mining operations, and operate heavy equipment daily.

Safety is at the core of everything we do. Proper safety and employee training ensure that our employees and the public remain safe as they build and maintain Virginia's transportation systems. Each day, transportation construction companies train for and practice the best safety solutions for their employees. Our members seek to comply with or exceed published CDC guidelines to mitigate SARS-CoV-2 and COVID-19 related hazards.

The onset of COVID-19 has introduced new risks into the workplace, and our members have adapted by introducing new safety measures and protocols that have helped our industry limit the spread of this virus, as we continue to build and maintain the Commonwealth's transportation infrastructure, which the Governor has deemed an essential activity during this pandemic.

While we believe these temporary emergency regulations are largely helpful in addressing worker safety, we believe that the Department should consider several issues that are unique to transportation related construction. The proposed regulations place indoor and outdoor construction in the same "medium" exposure risk category. We believe the risk affiliated with these two types of construction is different and unique as it relates to COVID-19. Transportation construction and maintenance are performed outdoors, where conditions and practices are safer. Therefore, we believe the Board should move outdoor construction from "medium" risk to "lower" risk.

The supporting documentation accompanying the emergency regulations highlight the unique environment of outdoor construction. COVID-19 outbreaks disproportionately occurred in indoor, vertical construction sites (schools, commercial, and residential construction). Outdoor construction related

activities (transportation and other linear construction) pose significantly less risk of exposure to COVID-19 primarily because social distancing is much easier to maintain.

Recent research suggests outdoor air is well circulated and poses lower risk of exposure to COVID-19. By performing virtually all work outdoors, workers have the space and unlimited air mass to perform tasks with proper air flow and distancing. There are no elevators or stairs for employees to congregate in confined spaces. Those employees who drive heavy machinery are alone in the vehicle, just as the delivery drivers who have been placed in the “lower” risk category.

The Governor and the Commonwealth have adhered to the guidance that outdoor activity reduces the risk of spreading the virus throughout this pandemic. For example, exercise facilities were closed during Phase I, except for those facilities that could hold their activities outdoors. Movie theaters remain closed while drive-in (outdoor) theaters are open. These emergency regulations should continue to reflect the settled policy of the Commonwealth and this administration that outdoor activity reduces the risk of exposure.

In conclusion, VTCA recommends the Board move Outdoor Construction to “lower risk” category and is committed to working in partnership with the Department and the Governor’s administration to protect our employees while we continue to address the Commonwealth’s infrastructure needs. These infrastructure needs are critical to economic commerce across the Commonwealth and should be considered as the Board makes its determination.

Sincerely,



Jeffrey C. Southard
Executive Vice President

Cc: Clark Mercer, Chief of Staff, Governor Ralph Northam
Megan Healy, Chief Workforce Development Advisor, Governor Ralph Northam
Jay Withrow, Director Legal Support, DOLI
Gordon Dixon, VTCA