



January 9, 2021

**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 Precast Concrete Association of Virginia (PCAV)  
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

Members of the Safety and Health Code Board,

The Precast Concrete Association of Virginia (PCAV) represents companies in the precast concrete industry that produce essential products to support the infrastructure needs of the Commonwealth. On behalf of the PCAV, I oppose adopting a Permanent Standard for Infectious Disease Prevention: SARS-CoV-2 Virus that Causes COVID-19, 16VAC25-220.

The producers of precast concrete products and the associate partners who provide necessary elements used in the manufacturing process, are a critical part of the Construction industry. Construction is an essential industry performing critical infrastructure work keeping society moving in the Commonwealth. 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 is heavily regulated under multiple federal and state occupational health and safety programs. PCAV members immediately implemented and rigorously follow CDC and OSHA Guidelines for COVID-19 in the construction workplace.

- **The proposed permanent standard has no specified end date.** The permanent standard is based on a temporary standard for a temporary health crisis for which there are now 2 vaccines with over 90% efficacy and several additional candidates nearing the end of their trials. Governor Northam on January 6<sup>th</sup>, 2021 expressed confidence in a consistent supply of over 110,000 doses distributed to Virginia weekly. The Governor projected Virginia would have essential workers and Virginians most vulnerable to COVID-19 (Groups 1A, B, C), vaccinated before summer 2021. At that time, he projected the remaining 40% of the population, would be eligible to receive the vaccine. Considering these factors, there is no

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logical or scientific justification for the continuance of a standard that was specifically crafted in response to a State of Emergency for COVID-19. Any standard should sunset immediately upon the expiration of the Governor’s State of Emergency.

- **The proposed standard is burdensome and inflexible.**
  - As the science has changed, the current ETS has not, nor does it 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 employees 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 standard requires 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. These daily screenings take crew leaders away from performing their other job duties, impacting overall productivity. PCAV member companies have generous paid sick leave policies that cover COVID-19 absences and provide employees the choice to stay home with pay if they are exhibiting symptoms of COVID-19 or have had a potential exposure. Employees in heavy construction are not forced to choose between working and staying home.
- **It has not been proven a “grave danger” exists for ALL workplaces thereby making it necessary to adopt a permanent standard for ALL businesses or industries.** Construction job tasks falls into the “Low” and “Medium” (16VAC25-220-30) exposure category. Physical distancing is a natural part of our work environment. The standard uses “Grave” danger to regulate ALL businesses in Virginia, yet the great majority of the tragic deaths in the Commonwealth are citizens over 70 years old, residents of nursing/assisted living facilities or congregant settings, and those with serious comorbidities.
- **The Board must partner with a wide variety of stakeholders, including the business community to advise and consent on any workplace regulations.**
  - The economic impact of the proposed standard on businesses and entire industries is significant. The Commonwealth will be impacted as the cost of doing business increases due to burdensome and costly proposed standard. The public should be allowed sufficient access to the Economic Impact Statement required by the Small Business Regulatory Act/Small Business Regulatory Enforcement Fairness Act. To date, no EIS has been made available. The public must have the

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opportunity to comment on the findings prior to a vote to adopt the permanent standard.

- The metrics, scientific data, or criteria the board would use to make a determination to continue a permanent standard after the expiration of the COVID-19 State of Emergency should be made public. It is critical for the public to see the data that would be used to continue a standard for a disease the Governor, a physician, no longer views as an emergency, and the Commissioner of Health has determined no longer presents a public health emergency in the Commonwealth.
- **COVID-19 is a unique disease and should not be used to expand workplace regulations to include other infectious diseases.** No amendment or attempt to include other flus, viruses, cold or other communicable diseases in any permanent standard should be considered. There is no one-size fits all plan to combat a wide variety of infectious illnesses. No one knows what the future holds. If there is a next pandemic, the transmission method cannot be accurately predicted and therefore regulations cannot be adopted for the unknown.

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

The precast concrete producers and associates as a vital component of the construction industry, remain 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

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

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