

Commenter: Rachel Lyons

UFCW Supports adoption of 16 VAC 25-220 emergency safety standard

June 22, 2020

Virginia Safety and Health Codes Board
Department of Labor and Industry
Commonwealth of Virginia
Main Street Centre
600 East Main Street, Suite 207
Richmond VA 23219

Re: Emergency Temporary Standard/Emergency Regulation to address the SARS-CoV-2 Virus and COVID-19 Disease hazards for all employees and employers under the jurisdiction of the Virginia Occupational Safety and Health (VOSH) program, 16 VAC 25-220

Dear Virginia Safety and Health Codes Board:

On behalf of the 1.3 million members of the United Food and Commercial Workers International Union (UFCW), we submit these comments in support of a COVID-19 emergency temporary standard for all employers in Virginia. We strongly support the adoption of 16 VAC 25-220, as an emergency temporary "standard."

UFCW is America's largest food and retail union representing workers in grocery stores, meatpacking, food processing, health care, chemical plants, retail, and senior care facilities.

Our members are on the front line of this crisis and are risking their health and safety to ensure that our nation's food supply is safe, grocery store shelves are stocked, and pharmacies are distributing medication. Food workers deserve not only our gratitude, but adequate protection and provision for their health, safety, and financial security.

UFCW applauds Virginia for issuing an emergency safety standard to address COVID-19. We support the standard and recommend the following changes:

- Classify the meat and poultry processing and grocery industries as high hazard.
- Include workplace redesign in engineering controls.
- Change definition of occupational exposure.
- Make sure training available at all hazard levels.
- Complying with CDC guidelines is not enough.
- Report infections to government health authorities.

Classify the meat processing, poultry, and grocery industries as high hazard.

Meatpacking, poultry, and grocery all should be considered Very High Risk or High Risk industries, based on the experiences of these industries. The risk categories should reflect the experience of workers in the industries and workers in meat processing, poultry, and grocery are at a very high risk of infection and death. Food processing workers who work in meatpacking, poultry, and further processing plants are working long hours under extremely difficult, stressful, and often hazardous conditions to make sure the public has access to food. Meat and poultry slaughter and processing workers face many job risks that can lead to severe injury, illness, and even death.

These brave men and women are providing an essential service despite enormous risk to their own health and the health of their families. We need these workers to stay healthy more than ever and protecting them is essential to our communities and the food supply.

Our members are dying. Our internal estimates have confirmed 225 of our members have tragically died and over 28,000 have been sick or been exposed.

Media reports have noted that meatpacking and poultry plants are "hot-spots" for COVID-19 infections, with sometimes up to 30% of the workforce suffering from this illness. Meatpacking and poultry workers stand in most cases one to two feet apart on the production floor, for 8 to 9 hours a day. Grocery workers have very

high exposure due to the presence of the public in the stores. Many grocery store workers are exposed to persons within 6 feet, for up to 8 hours a day.

Meatpacking, poultry, and grocery workers are at high risk due to the nature of their jobs and should be classified as high hazard.

Include workplace redesign in engineering controls.

The most effective way to protect workers from contracting COVID-19 in the meat processing, poultry, and grocery industries are engineering controls that include the option for workplace redesign. Workplace redesign should be listed as an engineering control in the proposed standard. Workplace redesign should be prioritized over barriers – many meatpacking and poultry employers are only putting up barriers despite the lack of data to support the effectiveness of barriers to reduce the spread of the virus. There is science that supports the reduction of virus spread when people are 6 feet or more apart. Therefore, workplace redesign which results in physical distancing to 6 feet apart between workers is the primary control that these standards should require in meat processing and poultry. The Executive Order on meatpacking issued in Illinois is an example of including redesigning and slowing down the production line as an engineering control.

UFCW recommends the following modification:

“Engineering Control means the use of substitution, isolation, ventilation, equipment modification and worktable, and workspace redesign or modification to reduce exposure to... In meatpacking and poultry plants, workers often work at long tables which move product along the table on conveyor belts. In order to appropriately space workers apart to 6 feet, engineering controls may be required to redesign the worktables and conveyors.”

Change definition of occupational exposure

The “occupational exposure” definition should be modified to include breakroom and locker rooms. The current definition only mentions exposure during job tasks.

UFCW recommends the following modification:

“Occupational exposure means the state of being actually or potentially exposed to contact with ... related hazards during job tasks, during authorized breaks during the work shift, in other areas where workers normally congregate on the work site, including locker rooms and in the course of employment”

A significant source of COVID-19 exposure for meat processing and poultry workers can take place in areas where workers congregate, that are related to the job, but are not actually part of the job tasks. Workers are assigned lockers, and locker rooms are areas where ventilation is often not adequate, and space is tight, as workers put on and take off protective clothing or gear. In a typical plant, there could be hundreds of workers in break rooms and lunchrooms.

Make sure training available at all hazard levels

UFCW recommends that Virginia require that all employees at all hazard levels be provided with job-specific education and training on preventing transmission of COVID-19, including initial, routine, and refresher training. The training materials should be provided in the languages workers read and speak.

Complying with CDC guidelines is not enough

The guidance issued by the Centers for Disease Control and Prevention and the Occupational Health and Safety Administration is a step in the right direction, but all workers, including meat, poultry, and grocery workers need mandatory and enforceable standards to protect workers from contracting and spreading COVID 19.

UFCW recommends the removal of Section G which states “To the extent that an employer complies with requirements contained in CDC publications to mitigate SARS-CoV-2 and COVID-19 related hazards or job tasks addressed by this standard/regulation, the employer’s actions shall be considered in compliance with this standard/regulation.” Employers should be required to comply with the requirements of this Virginia OSHA standard and guidance cannot supersede a standard.

Report infections to government health authorities

The proposed standard as written states that "If employers are notified of a positive test in a worker, they must notify employees according to HIPPA, other employers at site, building owner." There is no requirement to report these cases to any government authority. We believe the standard can be strengthened, and public health can be improved by adding the following:

"Employers should be required to report positive cases to the local or state public health department, OSHA, and CDC. Employers must be required to report 2 or 3 or more infections in the workplace (presumptively) to OSHA."

In addition to these points, UFCW supports the comments submitted by the AFL-CIO.

Thank you for the opportunity to comment.

Sincerely,

/s/ Anthony M. Perrone

International President

United Food and Commercial Workers International Union

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