

**FACT SHEET:** July 13, 2020 (press conference 1pm)

### **Virginia Workers Need a Strong OSHA Standard to Protect them from COVID-19**

Governor Northam knows that COVID-19 poses a grave danger to Virginia's workers and the community and that strong measures are needed to protect workers and the public from this deadly virus. According to CDC data, more than 1,100 Virginia poultry and meat processing workers had been infected by the virus and 10 had died by the end of May.<sup>1</sup> Similarly, Virginia's nursing homes reported that 1,261 nursing home staff had been infected and 14 had died by the end of June.<sup>2</sup> These numbers are likely an undercount of the true toll of the disease in Virginia and there is no data on COVID-19 infections for most groups of workers.

While some progress was made this Spring to reduce infections, COVID-19 infections are again increasing and many workers remain at great risk. Last week, the governor announced that all options are on the table to protect Virginians from this very contagious virus and serious disease.

Last month, Governor Northam directed the Virginia Department of Labor and Industry (DOLI), through its state OSHA plan (Virginia Occupational Safety and Health program—VOSH), to issue an emergency OSHA standard to protect Virginia workers from COVID-19. This standard is expected to be voted on this week by the Safety and Health Codes Board, but industry groups have pushed the state to include a dangerous loophole that would weaken the standard to allow employers to follow weaker CDC guidelines. We need the governor to follow through on his commitment to protect Virginia workers from this deadly virus and immediately pass a strong emergency standard without any loopholes.

#### **The Virginia Codes Board is working to create a strong standard**

In June, DOLI proposed the emergency standard that must be reviewed and approved by the state's Safety and Health Codes Board. The Board is required by law to set standards *that provide the highest degree of protection to employees* that is feasible. After a public comment period, the Board now is reviewing and amending the draft standard to ensure that the final standard will protect all Virginia workers to the highest degree.

Language in the original proposal allowed compliance with CDC guidelines to substitute for the requirements of a stronger VOSH standard. This dangerous language creates a serious loophole that weakens protections for all workers, including poultry processing workers who are experiencing serious and imminent outbreaks and teachers who are in danger if schools open without strong safety requirements. On June 29, the Safety and Health Codes Board

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<sup>1</sup> Waltenburg MA, Victoroff T, Rose CE, et al. Update: COVID-19 Among Workers in Meat and Poultry Processing Facilities — United States, April–May 2020. MMWR Morb Mortal Wkly Rep 2020;69:887-892. DOI: [http://dx.doi.org/10.15585/mmwr.mm6927e2external icon](http://dx.doi.org/10.15585/mmwr.mm6927e2external%20icon)

<sup>2</sup> CMS, COVID-19 Nursing Home Data, Submitted Data as of week ending 06/28/2020. <https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg/>

unanimously adopted an amendment to fix this fatal flaw by allowing employers to rely on CDC guidelines only if the guidelines provide an *equivalent or greater level of protection* for workers as the Virginia standard.

Yet, big business moved to derail the process.

Despite the board's unanimous vote to change this amendment, the poultry and higher education industries lobbied the state to pass a motion on July 7 to revert back to the original weak language. This amendment allows employers to follow any CDC guideline, no matter how weak or deficient, even if it is weaker than the Virginia standard. With the adoption of this amendment, the overall emergency standard fails to provide Virginia workers the highest level of protection they have a right to under the Virginia job safety law.

This loophole leaves workers unprotected from COVID-19.

CDC guidelines do not provide the same level of protection as the Virginia OSHA standard. The CDC guidelines are designed to be voluntary, and impose no obligations upon employers—they use language such as “consider,” “if possible,” and “may.” Many CDC guidelines lack many important requirements contained in the Virginia OSHA standard, such as physical distancing, masks, training, and notification of health authorities of positive cases.

Also, there are over 100 guidelines for different occupations with dozens of recommendations that change frequently. The changes are not usually based on new scientific information; instead, they are the result of political pressure by big businesses and the White House. Most recently, Trump called for school reopening guidelines to be weakened, just when schools are planning to re-open safely for their teachers, children, and communities.

Virginia must pass a strong OSHA standard to protect Virginia workers and not rely on weak federal CDC guidelines.

The Governor of Virginia must support workers and the Safety and Health Codes Board.

In order to assure that workers are protected from COVID-19, the Governor and his administration must support the Board's original vote to protect all workers equally by:

- Allowing employers to rely on CDC guidelines *only if* they provide an equivalent or greater level of protection as the Virginia OSHA standard.
- Requiring employers who decide to follow CDC guidelines instead of the OSHA standard to inform and train their workers on which guidelines they are using to protect them from COVID-19 exposure at work.
- Preventing further interference from big business efforts to influence the Board's mandated duty to protect workers to the highest degree.

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