

FINAL
SAFETY AND HEALTH CODES BOARD
PUBLIC HEARING AND MEETING MINUTES
Wednesday July 15, 2020

On March 12, 2020, Governor Ralph Northam issued Executive Order Number 51, declaring a State of Emergency under § 44-146.17 due to the spread within the Commonwealth and surrounding states of the Novel Coronavirus (COVID-19), a communicable disease of public health threat. On May 26, 2020, Governor Northam issued Executive Order Number 63, directing the Commissioner of Labor and Industry to promulgate emergency standards to “control, prevent, and mitigate the spread of COVID-19 in the workplace.”

“Under §2.2-3708.2.A.3, a public body may meet by electronic means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency.”

Given the nature of the emergency, that COVID-19 spreads easily from person to person, and the purpose of the meeting, which was to promulgate an emergency temporary standard specifically addressing the emergency, the Safety and Health Codes Board (“Board”) held an entirely electronic emergency meeting utilizing WebEx.

The Board members and Department staff listed below as “participating” were all participating via WebEx. There was no quorum of Board members *physically* assembled at one location. There was a quorum of Board members participating on WebEx for purposes of the emergency electronic meeting.

This meeting was a continued emergency meeting under Va. Code 2.2-3708.2(D)(2), following the initial meeting on June 24, 2020, the continued meeting on June 29, 2020, and the continued meeting on July 7, 2020. Notice of the continued meeting was provided to the public contemporaneously with the notice given to the Board. The notice invited the public to witness the meeting remotely via WebEx. Notice was provided on the Department of Labor and Industry’s (DOLI) website at <https://www.doli.virginia.gov/safety-and-health-codes-board-electronic-emergency-meeting/> as well as on the Virginia Regulatory Townhall’s website at <https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=31089>.

A copy of the proposed agenda and all agenda packets, unless exempt, and all materials furnished to members of the Board for this meeting were made available for public inspection on the Doli’s website at <https://www.doli.virginia.gov/safety-and-health-codes-board-electronic-emergency-meeting/> and the Virginia Regulatory Townhall’s website at <https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=31089> contemporaneously with the documents being furnished to the members of the Board.

BOARD MEMBERS

PARTICIPATING:

Mr. Charles Stiff, Interim Chair
Mr. Jeff Steers
Mr. Louis J. Cernak, Jr.

Dr. Dwight Flammia
Mr. John Fulton
Ms. Tina Hoover
Ms. Anna Jolly
Mr. Michael Luce
Mr. Courtney Malveaux, participated for parts of the meeting, absences noted
Mr. Travis Parsons
Mr. Kenneth Richardson, II
Ms. Milagro Rodriguez
Mr. Thomas Thurston

BOARD MEMBERS ABSENT: Mr. Phil Glaize

STAFF PARTICIPATING: Mr. C. Ray Davenport, Commissioner of Dept. of Labor & Industry
Mr. William P. Burge, Assistant Commissioner
Mr. Jay Withrow, Director, Legal Support, BLS, VPP, ORA, and OWB
Ms. Princy R. Doss, Director, Policy, Planning, & Public Information
Mr. Ron Graham, Director, VOSH Health Compliance
Ms. Marta Fernandes, VOSH Safety Compliance
Ms. Jennifer Rose, Director
Ms. Christine Childress
Mr. Richard White
Ms. Diane Duell, Director, Legal Support
Ms. Holly Trice, Senior Staff Attorney
Mr. Edward G. Hilton, Director of Boiler Safety
Ms. Cristin Bernhardt, Staff Attorney
Mr. Alex West, Staff Attorney
Ms. Elizabeth DePatie, DOLI Legal Intern

OTHERS PARTICIPATING: Mr. Joshua Laws, Assistant Attorney General
Ms. Lisa Wright, Court Reporter, Chandler & Halasz, Stenographic Court Reporters

CALL TO ORDER

Chair Chuck Stiff called the Public meeting to order at 9:15am. A quorum was present. Chair Stiff made opening remarks informing the public that this meeting was a continued emergency electronic meeting, held under Va. Code Section 2.2-3708.2, and using WebEx to allow panelists (Board members and DOLI staff) and participants to listen to the meeting by internet or telephone.

The purpose of the continued emergency meeting was to adopt an Emergency Temporary Standard under Va. Code 40.1-22(6a), Infectious Disease Prevention, SARS-CoV-2 Virus That Causes COVID-19, VAC 25-220, applicable to all employers and employees covered by Virginia Occupational Safety and Health (VOSH) program.

Section 2.2-3708.2(d)(7), Code of Virginia, requires that "votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes." It also requires that "For emergency meetings held by electronic communication means, the nature of the emergency shall be stated in the minutes."

APPROVAL OF AGENDA

Chair Stiff asked the Board if there was any discussion on the agenda. There was none. Chair Stiff asked if there was a motion to approve the agenda. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Approval of Agenda	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	13	0	0	1	

NEW BUSINESS

After approval of the agenda, Chair stiff moved onto new business, which consisted of reviewing and amending the proposed emergency temporary standard for Infectious Disease Prevention, SARS-CoV-2 Virus that causes COVID-19. Chair Stiff recognized the department. Before discussing the standard, Director Withrow gave an update on statistics of the Coronavirus both in Virginia and across the United States. The department then returned to discussing the proposed standard.

The department prepared a document entitled "16 VAC 25-220, Emergency Temporary Standard Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19 VOSH PROPOSED AMENDMENTS: July 15, 2020, Reflecting Changes to June 12, 2020 Draft COMBINED BOARD MEMBER AMENDMENTS: [THROUGH July 7, 2020]" ("combined board document") This document combined all the amendments the board members had introduced into one document as well as revisions the Department and the Administration wished to make. References to certain page numbers in motions that were made during this meeting, reference the page numbers of the above listed document.

Board member Malveaux was unavailable for the entire meeting; the department began with his amendments so that he was present to discuss his amendments. Board Member Malveaux' first motion

was to delete section 50.B.8 of 16VAC25-220. Chair Stiff recognized Board member Malveaux who explained his reasoning for his amendment. The Board further discussed the matter.

Chair Stiff asked if someone would make a motion. Board Member Malveaux made a motion to delete section 50.B.8. The motion was made, properly seconded, and a roll call vote was conducted. The motion failed.

Malveaux's motion to delete 16VAC25-220-50.B.8	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers		1			
Mr. Louis J. ("Lou") Cernak Jr.		1			
Dr. Dwight Flammia		1			
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons		1			
Mr. Kenneth W. Richardson, II		1			
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff			1		
Mr. Thomas A. Thurston		1			
TOTALS	3	8	2	1	

Chair Stiff called for the next item. The department turned to page 64 to Board member Malveaux's amendment of section 90C, which appears on page 65 of the combined board document. Section 90 of the proposed standard concerns anti-discrimination/whistleblower and Director Withrow gave the Board background information on §40.1-51.2:1 and 16VAC25-60-110 (whistleblower statute and regulation), before turning to Board Member Malveaux to discuss his amendment. Board Member Malveaux explained his reasoning for the amendment. The Board discussed the matter.

Chair Stiff asked if someone would make a motion to amend section 90C. The motion was made, properly seconded, and a roll call vote was conducted. The motion failed.

Malveaux's motion to amend section 90C of 16VAC25-220	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers			1		
Mr. Louis J. ("Lou") Cernak Jr.		1			
Dr. Dwight Flammia			1		
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly		1			
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons		1			

Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez		1			
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston		1			
TOTALS	5	5	3	1	

After Board member Malveaux' second motion, Board Member Malveaux left the meeting.

Chair Stiff called for the next item. The department moved on to pages 8 and 9 of the combined board document which addressed the revisions to 10G put forth by the Administration.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept the Administration's revisions to 10G. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Motion on Administration's amendments to 10G	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

The Board recessed from 10:25am to 10:35am.

At the resumption of the meeting at 10:35am, Chair Stiff called for the next item. Board member Malveaux returned to the meeting. The department moved on to pages 34 of the combined board document. Board member Parsons introduced an amendment to section 50.B.8 regarding psychological and behavioral support. The department asked if the department could add in an amendment to Board Member Parson's amendment adding in the phrase "to the extent feasible." Board Member Parson agreed to the department's addition.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept Board member Parson’s amendment to section 50.B.8. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Parson’s motion on page 34 to amend 50.B.8	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers			1		
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff			1		
Mr. Thomas A. Thurston	1				
TOTALS	10		3	1	

Board member Malveaux left the meeting.

Chair Stiff called for the next item. The department moved to page 34 of the document, where the Department of Health had recommended the words “health care setting” be defined. Director Withrow explained the term was only used once and that the department felt there was sufficient guidance in the definition of “exposure risk level.” Board member Flammia accepted the department’s reasoning and no motion was made.

Chair Stiff called for the next item. The department moved on to pages 33-36 of the combined document. The department asked that the board consider the revisions on these pages, adding and deleting a few words on these pages to “clean up” the document.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept the department’s recommendation to make clean up revisions to page 33-36 of the combined document. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Motion on Department’s clean up of pages 33-36	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	

Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Board member Malveaux returned to the meeting.

Chair Stiff called for the next item. The department moved to page 36 and Board Member Thurston's amendment regarding employee representation in the assessment process. The department made some suggestions to Board Member Thurston's amendment that Board Member Thurston accepted.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to make to changes suggested by Board member Thurston and the department on page 36. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Motion on Thurston and Dept. amendments on page 36	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton			1		
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	11	0	2	1	

Chair Stiff called for the next item. The department moved to page 37 and an amendment proposed by Board member Jolly. The department felt the amendment was repetitive. Board member Jolly withdrew the amendment.

Chair Stiff called for the next item. The department moved to pages 36 and 37. These were clean up items.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept the department’s recommendation for clean up revisions on pages 36-37 through item 4. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Dept’s motion on clean up items on pages 36-37 through item 4	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	13	0	0	1	

Chair Stiff called for the next item. The department moved on to page 37 and an amendment by Board member Rodriguez to amend 50.c.5. Board member Rodriguez discussed her reasoning for the amendment.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept Board member Rodriguez’ amendments to 50.c.5. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Motion on Rodriguez’ amendments to 50.c.5	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton			1		
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce			1		

Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	11	0	2	1	

Chair Stiff called for the next item. The department moved to pages 39-42 of the combined board document. Director Withrow discussed the department's recommendation for clean up and reorganizing of the paragraphs. Board member Jolly also had an amendment on these pages that would fit in with the department's recommendations. Board member Jolly accepted.

Chair Stiff asked if there was any discussion on the matter. Board member Steers had a question on page 39 regarding engineering controls and what to do in situations where the employer did not own the building in which they worked. Director Withrow explained the department would be putting out guidance on this issue.

Chair Stiff asked if someone would make a motion to accept the department's recommendation to adopt changes on pages 39-42. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Dept motion for revisions to pages 39-42 of combined board document	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	13	0	0	1	

Board member Malveaux left the meeting.

Chair Stiff called for the next item. The department moved to pages 43-45. Board member Jolly withdrew her amendment on these pages. Director Withrow addressed a comment made by the Health Department on these pages. The department recommended the board accept the clean up revisions on pages 43-45, section 60.C.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept the department’s recommendation to make the clean up revisions to section 60.C. on pages 43-45 of the combined board document. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Dept. motion for revisions to 60.C., pages 43-45 of combined board document	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Chair Stiff called for the next item. The department moved on to an amendment sent to the department by Board member Jolly to add a “n” and “o” to section 60.B.1 on page 41. Board member Jolly explained her reasoning the she felt the public did not understand when face coverings were required to be work.

Chair Stiff asked if there was any discussion on the matter. Chair Stiff expressed his concern that the standard was blurring the line between PPE and face coverings. Director Withrow commented that the standard did clearly define face coverings, surgical/medical procedure mask and PPE. Director Withrow also committed to addressing the issue in the FAQ guidance put out by the department. Board member Rodriguez asked that the amendment add the requirement that the employer provide the face covering if the face covering were to be required given the work situation. Board member Jolly stated she would agree to that addition.

Chair Stiff asked if someone would make a motion to accept Board member Jolly and Rodriguez’ amendment of section 60.B.1 to add an n and an o. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Jolly and Rodriguez motion to amend section 60 to add a “n” and “o”	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Dr. Dwight Flammia	1				

Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Chair Stiff called for the next item. The department moved to page 46 of the combined board document and discussed several pages of "clean up" revisions. The department recommended that the board adopt the small revisions found on pages 46-49.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept the department's recommendation to adopt the small revisions found on pages 46-49. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Dept. motion on "clean up" revisions on pages 46-49 of combined board document	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Chair Stiff called for the next item. The department moved to page 50. Director Withrow discussed comments submitted by the Health Department. In response to the comments, the department added new sections section 70.C.5.c and 70.C.9. Director Withrow then asked if Board member Flammia had any concerns or comments on the additional sections the department proposed in response to the Health department's comments. Board member Flammia stated he had no comments or concerns.

Director Withrow then moved to page 51 of the combined board document, where the department proposed to delete section 8 on that page because it was repetitive.

Chair Stiff asked if there was any discussion on the matter. Board member Steers asked a question on temperature checks.

Chair Stiff asked if someone would make a motion to accept the changes on pages 50-51. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Dept. Motion to accept changes to pages 50 and 51 to add to section 70 and delete section 70.C.8	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Chair Stiff called for the next item. The department moved to page 51 where board member Rodriguez proposed adding in a new section 70.C.8, proposing there be written documentation of which mandatory and non mandatory CDC guidance an employer is following in lieu of the standard. Board member Rodriguez explained her rationale for this section. Chair Stiff asked a question whether CDC guidance had already been addressed in the standard. Director Withrow stated the standard did not already have requirement for written documentation of what CDC guidance an employer was following.

Chair Stiff asked if there was any other discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to motion to accept Board member Rodriguez' motion. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Rodriguez' motion to add in new section 70.C.8	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton		1			

Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff			1		
Mr. Thomas A. Thurston	1				
TOTALS	9	1	2	2	

Chair Stiff called for the next item. The department skipped to page 64 to address changes to section 90 to quickly finish this section before a lunch break. The department recommended adoption of the small changes on page 64 as well as Board member Parson's amendment found on that page. The department also recommended adoption of the department and board member Thurston's amendment to section 90.D.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept the department's recommendation to adopt the clean up changes to pages 64 and 65 as well as Board member Parson's amendment and the joint Board member Thurston and department amendment. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Motion to accept Parson amendment and Thurston/Dept. amendment and clean up changes on pages 64-65	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston				1	
TOTALS	11	0	0	3	

Chair Stiff then recessed for lunch.

The meeting reconvened at 12:30pm.

Chair Stiff called for the next item. The department moved to page 52 and the Administration's small amendment to section 80. The department supported the Administration's amendment.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept the amendment of the Administration to section 80. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Administration's motion on section 80	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Chair Stiff called for the next item. Board member Malveaux rejoined the meeting. The department moved to page 55 which was a streamlined amendment of section 80 by Board members Parson and Thurston and the department.

Chair Stiff asked if there was any discussion on the matter. Board member Hoover asked if there would be training documents in other languages. Director Withrow discussed the department's plans for translating the training documents into multiple languages.

Board member Steers also asked a question about implementation of the training and Director Withrow stated section 20 would address effective dates, but that the board had not addressed that section, yet.

Chair Stiff suggested the word "adequate" before ventilation be removed.

Chair Stiff asked if someone would make a motion to accept the streamlined board member Parson amendment. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Parsons' amendment to section 80 on page 50, and taking out the word "adequate"	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	13	0	0	1	

Chair Stiff called for the next item. The department moved to pages 56-59 of the combined board document. The department recommended the board adopt all the clean up changes on pages 57-top of 59, to sections 80 C, D, and E.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept the department's recommendation to adopt all the clean up revisions to page 57-the top of page 59. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Dept. motion to adopt clean up revisions on page 57-59, section 80C, D, E	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	13	0	0	1	

Chair Stiff called for the next item. The department moved to page 60 to Board member Parson’s substitution amendment for sections 80F and G. Board member Parson explained his rationale.

Chair Stiff asked if there was any discussion on the matter. Board member Malveaux asked if the intent was to put up a poster in the regular area of places at employment where similar posters are displayed. Director Withrow said yes. Chair Stiff, Board member Jolly and Board member discussed adding the option of providing awareness orally and well as written. Board member Jolly suggested the first line of proposed section 80F be revised to say “Employers with hazards or job tasks classified at lower risk shall provide written or oral information...” Board member Jolly then suggested the word “written” before “information” in section G.

Chair Stiff asked if someone would make a motion to accept Board member Parson’s substitution amendment with the other suggested changes by Chair Stiff and Board member Jolly. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Parson’s substitution amendment for section 80F and G with the addition of “and oral” to first line and take out word “written” before “information” in G	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	13	0	0	1	

Chair Stiff called for the next item. The department moved on to page 64 to discuss a minor amendment sent to Director Withrow by Board member Parson, proposing an amendment to section 90B. The amendment proposed moving the words “face covering” after “face shield and gloves.” The department did not have an issue with the change. Board member Steers pointed out the word “or” should be taken out before the word gloves.

Chair Stiff asked if there was any other discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept Board member Parson’s amendment to section 90B. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Parson amendment to move the words “face covering” after “face shield and gloves” in section 90B and to take out the word “or” before gloves.	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. (“Lou”) Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux	1				
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro (“Milly”) Rodriguez	1				
Mr. Charles L. (“Chuck”) Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	13	0	0	1	

Board member Malveaux left the meeting. Chair Stiff called for the next item. The department moved to page 10 to discuss the section on section 20, Dates. Director Withrow discussed the need to publish the entire ETS in a newspaper of general circulation in Richmond, Virginia because Va. Code 40.1-22(6a) required this. Given that requirement and the need for the department to be able to create all the training documents needed for employers, the Department recommended an effective date sometime the week of July 27, 2020. The department also recommended the training requirement for 60 days under section 70 and 30 days for the training required in section 80. Chair Stiff asked if the department felt comfortable with these dates. Director Withrow responded that he was.

Chair Stiff asked if there was any discussion on the matter. Board member Rodriguez expressed concern for 60 days to implement training; she felt the emergency warranted a faster implementation. Board member Parson expressed the same concerns. Both board members questioned whether the ETS could be published electronically. Director Withrow explained the research the department performed indicated the statute required publication of the standard in paper form.

Board member Hoover felt 30 and 60 days were too soon for employers to complete the training. She suggested making all of it 60 days. There were more discussion back and forth on possible options.

Chair Stiff asked if someone would make a motion to accept the department’s recommendations for both the language of section 20 and the specific dates listed in section 20 regarding effective date and dates by which employers had to have their training complete. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Dept motion on Section 20, Dates	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover		1			
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	10	1	1	2	

Chair Stiff called for the next item. The department moved back to page 64. Board member Parsons made a motion to put the word "or" back into section 90B that was taken out in a previous motion. Director Withrow explained Board member Parsons wanted to make clear that "face coverings" were separate from the previous 3 items. The department agreed with Board member Parsons.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept Board member Parsons' amendment to put the word "or" back into section 90.B. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Parson's motion to put word "or" back into Section 90.B	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton	1				
Mr. Phil Glaize				1	
Ms. Tina Hoover	1				
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce	1				
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	12	0	0	2	

Chair Stiff called for the next item. The department moved back to page 2 of the combined board document. Director Withrow read the entirety of page 2 to the Board. Page 2 was a recommendation to adopt a final Emergency Temporary Standard with the effective date and training dates listed. Page 2 also included a paragraph recommending that the Board state in any motion it may make regarding this Emergency Temporary Standard that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this or any other standard or regulation.

Chair Stiff asked if there was any discussion on the matter. There was none.

Chair Stiff asked if someone would make a motion to accept the recommendation to adopt a final Emergency Temporary Standard. The motion was made, properly seconded, and a roll call vote was conducted. The motion carried.

Dept. Motion to adopt a final Emergency Temporary Standard	Yea	Nay	Abstain	Absent	Other
Mr. Jeffery Steers	1				
Mr. Louis J. ("Lou") Cernak Jr.	1				
Dr. Dwight Flammia	1				
Mr. John D. Fulton		1			
Mr. Phil Glaize				1	
Ms. Tina Hoover		1			
Ms. Anna E. Jolly	1				
Mr. Michael. A. Luce			1		
Mr. Courtney M. Malveaux				1	
Mr. Travis M. Parsons	1				
Mr. Kenneth W. Richardson, II	1				
Ms. Milagro ("Milly") Rodriguez	1				
Mr. Charles L. ("Chuck") Stiff	1				
Mr. Thomas A. Thurston	1				
TOTALS	9	2	1	2	

Chair Stiff thanked everyone for their diligence and asked Director Withrow if there was anything left on the combined board document. Director Withrow said no and then thanked all of the Board members for their hard work.

Items of Interest from the Department of Labor and Industry

Chair Stiff asked if there were any items of interest from the Department of Labor and Industry. Chair Stiff recognized the Commissioner. Commissioner Davenport thanked all the Board members on behalf of the workers of the Commonwealth, of the Administration, and the department, for their heroic work over the past 4 board meetings to deal with this difficult issue. Chair Stiff then thanked everyone on behalf of the board.

Items of Interest from Members of the Board

Board member Parsons thanks Chair Stiff for all his hard work and dedication.

Meeting Adjournment

There being no further business, a motion was properly made and seconded to adjourn the meeting. The meeting adjourned at 1:55 p.m.