

FINAL
SAFETY AND HEALTH CODES BOARD
PUBLIC MEETING MINUTES
Wednesday, March 19, 2025

On Wednesday, March 19, 2025, the Safety and Health Codes Board (“Board”) held a public meeting at Libbie Mill Public Library on 2100 Lake E Street, Richmond, VA 23230.

Notice of the public meeting was provided to the public as required by VA Code §2.2-3708.2 and Executive Order 19 (2022). Notice was provided on the Virginia Regulatory Town Hall’s website here: [Virginia Regulatory Town Hall View Meeting](#)

BOARD MEMBERS PARTICIPATING:

Mr. Jay Abbott
Mr. Kevin Battle
Mr. Lee Biedrycki
Ms. Kelly Bundy, Co-Chair
Mr. Joel Canady (DEQ)
Mr. Michael Everett
Ms. Julie Henderson (VDH)
Mr. Larry James
Ms. Audrey Janosik
Ms. Rena Parker
Mr. Allan Rees
Mr. James “Lou” Spencer

BOARD MEMBERS ABSENT:

Mr. Jeffrey Rowe
Mr. Robert Smith, Chair

STAFF PRESENT:

Mr. Chuck Stiff, Deputy Commissioner
Mr. David Johnson, Deputy Commissioner
Ms. Princy Doss, Director of Policy & Planning
Ms. Cristin Bernhardt, Regulatory Coordinator
Mr. Ron Graham, Director of VOSH Health Compliance
Mr. Jeff Cabral, Director of VOSH Safety Compliance
Mr. Robert Armstrong, Labor Law Compliance Manager
Ms. Zahra Qarni, Research & Analysis Manager
Mr. Larry Capati, Safety Regional Director
Ms. Jennifer Rose, Director of VOSH Cooperative Programs
Ms. Eva Ernst, Policy Analyst

OTHERS PARTICIPATING:

Mr. Joshua Laws, Assistant Attorney General

Ms. Debroah Carter, Court Reporter

CALL TO ORDER

Co-Chair Kelly Bundy called the meeting to order at 10:30 AM. Co-Chair Bundy asked the board members to introduce themselves and what area they represented. She then took roll of board members present at the meeting. A quorum was present.

BOARD MEMBER ROLE CALL

	Present	Absent		
Mr. Jay Abbott	x			
Mr. Kevin Battle	x			
Mr. Lee Biedrycki	x			
Ms. Kelly Bundy	x			
Mr. Joel Canady - DEQ	x			
Mr. Michael Everett	x			
Ms. Julie Henderson - VDH	x			
Mr. Larry James	x			
Ms. Audrey Janosik	x			
Ms. Rena Parker	x			
W. Allan Rees	x			
Mr. Jeffrey Rowe		x		
Mr. Robert Smith		x		
Mr. James Spencer	x			
TOTAL	12	2		

APPROVAL OF AGENDA

Co-Chair Bundy asked the Board if there was any discussion on the agenda. There was none. 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	Yes	No	Abstain	Absent
Mr. Jay Abbott	x			
Mr. Kevin Battle	x			
Mr. Lee Biedrycki	x			
Ms. Kelly Bundy	x			
Mr. Joel Canady - DEQ	x			
Mr. Michael Everett	x			
Ms. Julie Henderson - VDH	x			
Mr. Larry James	x			
Ms. Audrey Janosik	x			
Ms. Rena Parker	x			
W. Allan Rees	x			
Mr. Jeffrey Rowe				x
Mr. Robert Smith				x
Mr. James Spencer	x			
TOTAL				

APPROVAL OF MEETING MINUTES

Co-Chair Bundy then called for discussion and motion for approval of the September 23, 2024 meeting minutes. He asked the Board if there was any discussion on the September 23, 2024 minutes. Board member Rena Parker noted that she contacted DOLI earlier pointing out an error in the minutes where she was omitted from being present as well as for one vote count. Ms. Bernhardt of DOLI has noted the error and will edit for the final approved minutes. There was a request for a motion to approve the minutes with the changes presented to the board. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Approval of Meeting Minutes September 23, 2024 with noted edits.	Yes	No	Abstain	Absent
Mr. Jay Abbott	x			
Mr. Kevin Battle	x			
Mr. Lee Biedrycki	x			
Ms. Kelly Bundy	x			
Mr. Joel Canady - DEQ	x			
Mr. Michael Everett	x			
Ms. Julie Henderson - VDH	x			
Mr. Larry James	x			
Ms. Audrey Janosik	x			
Ms. Rena Parker	x			
W. Allan Rees	x			
Mr. Jeffrey Rowe				x
Mr. Robert Smith				x
Mr. James Spencer	x			
TOTAL				

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Co-Chair Bundy called the next item on the agenda, which was the opportunity for the public to address the Board. No members of the public requested to address the board.

OLD BUSINESS

None.

NEW BUSINESS

Co-Chair Bundy moved to the next item on the agenda. She recognized Jeffrey Cabral, Director of Safety Compliance for the Department of Labor & Industry (DOLI), to address the Board.

16VAC25-175: Federal Identical Construction Industry Standards

Mr. Cabral presented the updates to OSHA's Personal Protective Equipment Standard (PPE) for Construction (29 CFR 1926.95(c)), to explicitly require that PPE fit properly. Mr. Cabral explained that these revisions will align the construction standard with the language in the PPE with the corresponding language in OSHA's PPE standards for general industry and shipyards and affirms OSHA's interpretation of its PPE standard for construction as requiring properly fitting PPE. He explained why properly fitting PPE is so important to provide the safety that it is designed to provide for employees.

Mr. Cabral discussed OSHA's determination that this clarification resulted in limited cost to employers who are already providing properly fitted PPE. This final rule will provide employers clarity so that properly fitting PPE will be provided to protect employees from known hazards for those employers who were not in compliance.

In those instances where employees have been provided PPE that did not properly fit, employers will have to replace the PPE. OSHA has estimated the average costs for the portion of employers who may have not been following the already-existing requirement to provide properly fitting PPE at \$51.24 per employee for non-standard sizes. Employees who previously were not provided with properly fitting PPE will be provided to them and reduce exposures to workplace hazards (e.g., such as chemical, radiological, physical, electrical, mechanical, etc.). Employees should feel safer and healthier in the workplace with properly fitting PPE, while productivity should increase, and employees should experience better emotional and mental well-being when working with PPE that will properly protect them from hazards.

Mr. Cabral presented the recommendation from DOLI that the Safety and Health Codes Board adopt federal OSHA's Final Rule on Personal Protective Equipment in Construction, as authorized by Va. Code §§ 40.1-22(5) and 2.2-4006.A.4(c), with an effective date to be determined after adoption by the Board and submission to the exempt regulatory process on the Virginia Regulatory Townhall.

The Department also recommends that the Board state in any motion it may make to amend this regulation that it will receive, consider and respond to petitions by any interested person with respect to reconsideration or revision of this or any other regulation which has been adopted in accordance with the above-cited subsection A.4(c) of the Administrative Process Act.

Co-Chair Bundy asked the Board if there was any more discussion on the recommendation presented. There was none. There was a request for a motion to approve the recommended action. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Approval of recommendation to adopt OSHA Final Rule on Personal Protective Equipment Standard (PPE) for Construction.	Yes	No	Abstain	Absent
Mr. Jay Abbott	x			
Mr. Kevin Battle	x			
Mr. Lee Biedrycki	x			
Ms. Kelly Bundy	x			
Mr. Joel Canady - DEQ	x			
Mr. Michael Everett	x			
Ms. Julie Henderson - VDH	x			
Mr. Larry James	x			
Ms. Audrey Janosik	x			
Ms. Rena Parker	x			
W. Allan Rees	x			
Mr. Jeffrey Rowe				x
Mr. Robert Smith				x
Mr. James Spencer	x			
TOTAL	12			2

Co-Chair Bundy moved to the next item on the agenda. She recognized Ron Graham, Director of Health Compliance for the Department of Labor & Industry (DOLI), to address the Board.

OSHA Final Rule on Hazard Communication Standard: First Correction

Mr. Graham presented the technical amendments made by federal OSHA to their revised Hazard Communication Standard (May 2024) adopted by the SHCB at the September 23, 2024 board meeting with a November 20, 2024 effective date. Mr. Graham explained the technical changes to be made from technical errors in the previous OSHA HCS final rule adopted by the SHCB on September 23, 2024. He indicated that the technical error corrections will not affect any obligations under the current HCS previously adopted by the SHCB.

Mr. Graham summarized the two corrections to the regulatory text which include (1) OSHA inadvertently mis-numbered portions of paragraph (d) in the final rule, resulting in erroneous cross-references in other areas of the standard (e.g., paragraph (f)(1) and appendix D, table D.-1); and (2) A phrase regarding transmission of labels by electronic or other technological means was inadvertently included in paragraph (f)(11).

He then explained that the remaining errors corrected in this document are in the appendices. (1) In appendix B, the contents of table B.13.1 were inadvertently placed as table B.12.1. OSHA only intended to change table B.12.1 as described in the preamble to the final rule ([89 FR 44236](#)); and (2) In appendix C, OSHA inadvertently inserted hazard statements for aerosols instead of hazard statements for chemical under pressure in table C.4.16.

There are no associated costs to the regulated community and will be economic and technologically feasible since this rule only addresses minor technical errors.

Mr. Graham asked if any questions from the board. Board member Parker asked was there any particular reason for the phrase regarding the cancellation of label by electronic means to be taken out. Mr. Graham indicated that this would be provided in the preamble to the final rule which he does not have with him today but would be happy to provide information to any board members upon request.

Mr. Graham then presented DOLI's recommendation that the Safety and Health Codes Board adopt federal OSHA's Final Rule for the Hazard Communication Standard: First Correction, as authorized by Virginia Code §§ [40.1-22\(5\)](#) and [2.2-4006.A.4\(c\)](#), with an effective date to be determined after adoption by the Board and submission to the exempt regulatory process on the Virginia Regulatory Townhall.

The Department also recommends that the Board state in any motion it may make to amend this regulation that it will receive, consider and respond to petitions by any interested person with respect to reconsideration or revision of this or any other regulation which has been adopted in accordance with the above-cited subsection A.4(c) of the Administrative Process Act.

Co-Chair Bundy asked the Board if there was any additional discussion on the recommendation presented.

There were no more requests for discussion and a request for a motion to approve the recommended action was made. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Approval of recommendation to adopt OSHA Final Rule on Hazard Communication Standard: First Correction	Yes	No	Abstain	Absent
Mr. Jay Abbott	x			
Mr. Kevin Battle	x			
Mr. Lee Biedrycki	x			
Ms. Kelly Bundy	x			
Mr. Joel Canady - DEQ	x			
Mr. Michael Everett	x			
Ms. Julie Henderson - VDH	x			
Mr. Larry James	x			
Ms. Audrey Janosik	x			
Ms. Rena Parker	x			
W. Allan Rees	x			
Mr. Jeffrey Rowe				x
Mr. Robert Smith				x
Mr. James Spencer	x			
TOTAL	1			2

Co-Chair Bundy moved to the next item on the agenda. She recognized Princy Doss, Director of Policy & Planning for the Department of Labor & Industry (DOLI), to address the Board.

Notice of Periodic Reviews of Certain Regulations

16VAC25-11: Public Participation Guidelines.

16VAC25-180: Virginia Field Sanitation Standard, Agriculture

Ms. Doss discussed the Administrative Process Act (§2.2-4017 of the Code of Virginia) and Executive Order 19 (2022), “Development and Review of State Agency Regulations,” which governs the periodic review of existing regulations. This Executive Order requires that state agencies conduct a periodic review of regulations every four years. The two Safety and Health Codes Board regulations that have been identified for review in 2025 are (1) **16VAC25-11: Public Participation Guideline**, [Virginia Regulatory Town Hall 16VAC25-11](#) and (2) **16VAC25-180: Virginia Field Sanitation Standard, Agriculture**, : [Virginia Regulatory Town Hall 16VAC25-180](#)

Ms. Doss outlined the process for periodic reviews, which requires approval to proceed granted by the Board. Then DOLI will publish a Notice of Periodic Review to the *Virginia Register*, which opens a comment period of at least 21 days but not longer than 90 days. Subsequently, DOLI will review the regulations and related public comments, then prepare a brief with recommendations to be presented for the Board’s consideration at the next meeting. Based on the decision of the Board, DOLI will post a report on the Virginia Regulatory Town Hall website indicating whether the Board will retain the regulations with no changes or will begin a regulatory action to amend or repeal one or more regulations.

Ms. Doss then presented DOLI’s recommendation that the Safety and Health Codes Board approve the publication of a Notice of Periodic Review in the *Virginia Register* for 16 VAC 25-11, Public Participation Guidelines and 16VAC25-180, Virginia Field Sanitation Standard, Agriculture.

DOLI also recommends that the Board state in any motion it may make regarding the periodic review of these regulation that it will receive, consider and respond to petitions by any interested person at any time with respect to the periodic review which will be conducted in accordance with the above-cited § 2.2-4017 of the Administrative Process Act and Executive Order 19 (2022) “Development and Review of State Agency Regulations”.

Co-Chair Bundy asked the Board if there was any additional discussion on the recommendation presented.

There were no more requests for discussion and a request for a motion to approve the recommended action was made. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Approve the recommendation to proceed with the Periodic Review of the Regulations presented.	Yes	No	Abstain	Absent
Mr. Jay Abbott	x			
Mr. Kevin Battle	x			
Mr. Lee Biedrycki	x			
Ms. Kelly Bundy	x			
Mr. Joel Canady - DEQ	x			
Mr. Michael Everett	x			
Ms. Julie Henderson - VDH	x			
Mr. Larry James	x			
Ms. Audrey Janosik	x			
Ms. Rena Parker	x			
W. Allan Rees	x			
Mr. Jeffrey Rowe				x
Mr. Robert Smith				x
Mr. James Spencer	x			
TOTAL	12			2

Co-Chair Bundy moved to the next item on the agenda. She recognized Cristin Bernhardt, Regulatory Coordinator for the Department of Labor & Industry (DOLI), to address the Board.

Ms. Bernhardt presented to the board the 2024 amendments to § 2.2-3708.3.D, which now requires that before a public body can hold an all-virtual public meetings or allows members to use remote participation, the public body shall at least once annually adopt a policy, by recorded vote at a public meeting.

The policy shall describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the board will use for making requests to

use remote participation. In addition, the policy will fix the number of times remote participation for personal matters or all-virtual public meeting not to exceed 2 meetings per year or 25% of the meetings held per calendar year. Ms. Bernhardt explained that the SHCB generally meets twice a year so that would mean that only one meeting per year can be an all-virtual meeting.

Ms. Bernhardt then presented DOLI's recommendation that the Safety and Health Codes Board authorize DOLI to develop a policy on meetings held through electronic communications as outlined in the Va. Code § 2.2-3708.3.D to present to the board for adoption at the next board public meeting.

Co-Chair Bundy asked the Board if there was any additional discussion on the recommendation presented.

There were no more requests for discussion and a request for a motion to approve the recommended action was made. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Approve the recommendation for DOLI to proceed with the drafting of a Board Policy for Meetings Held through Electronic Communications.	Yes	No	Abstain	Absent
Mr. Jay Abbott	x			
Mr. Kevin Battle	x			
Mr. Lee Biedrycki	x			
Ms. Kelly Bundy	x			
Mr. Joel Canady - DEQ	x			
Mr. Michael Everett	x			
Ms. Julie Henderson - VDH	x			
Mr. Larry James	x			
Ms. Audrey Janosik	x			
Ms. Rena Parker	x			
W. Allan Rees	x			
Mr. Jeffrey Rowe				x

Mr. Robert Smith				x
Mr. James Spencer	x			
TOTAL	12			2

Co-Chair Bundy moved to the next item on the agenda, which was Items of Interest from the Department of Labor and Industry.

ITEMS OF INTEREST FROM THE DEPARTMENT OF LABOR AND INDUSTRY

Deputy Commissioner Charles (“Chuck”) Stiff addressed the Board to share some general updates on DOLI initiatives. Mr. Stiff thanked the board members and their importance in making Virginia better and safe place to live and work. Mr. Stiff highlighted the Volunteer Protection Programs (VPP) and their initiatives for creating important alliances, their “What IF” (Injury Free) program to change mindsets to focus on what companies can do to strive for an “injury free” work environment. This is a vision to create safety and health programs to be integrated into company management systems, etc. Challenge coins were distributed, which is a token developed to recognize strong management systems/ behavior.

Another DOLI initiative is the Fatality Prevention Campaign to emphasis to employers the top drivers of workplace hazards and injuries and work with leaders to focus on these hazards that result in the majority of injuries involved in the workplace.

Mr. Stiff then introduced Bob Armstrong, Labor Law Compliance Manager, to update the board on the Fayette Janitorial Service, LLC child labor investigation. Fayette contracted to perform sanitation services for Perdue Farms. This investigation was initiated when a 14-year-old minor failed to follow LOTO procedures and sustained serious injury while sanitizing machinery. DOLI child labor staff cited 11 violations of minors involved in the workplace. Fayette received several monetary penalties for these violations. In addition, Fayette initiated several compliance programs including enhanced audits, age recognition software and greater corporate oversight.

This investigation also resulted in DOLI becoming an active member of the Hampton Roads Human Trafficking Task Force and the Virginia Statewide Task Force and provided opportunity for DOLI to be more involved in this important program.

Board member Henderson (VDH) remarked that these engagement initiatives are a great benefit and VDH is practicing “food safety culture” and working the change the culture of the food industry. Ms. Henderson inquired whether public employers are also involved in these

programs. Mr. Stiff indicated not at this time but offered to connect her with Jennifer Rose, DOLI's Cooperative Programs Director, to discuss the expansion of these programs. The Department of Health would be interested in teaming up with DOLI for some of those initiatives.

ITEMS OF INTEREST FROM MEMBERS OF THE BOARD

Co-Chair Bundy asked for items of interest from the Members of the Board. There were no members who wished to address the board.

Board member Lou Spencer asked for clarification regarding independent contractor's protections and anything in the regulations regarding who has site control over the workplace and that someone is responsible for S&H to cover independent contractors, who are excluded from definition of employee. Mr. Stiff explained that VOSH does not look into whether employer, employee, independent contractor initially when called to a workplace, but role clarity is determined in the investigation. VOSH has a manual to handle all types of situations and circumstances as to employees, subcontractors, independent contractors, etc.

Josh Laws with the Office of Attorney General addressed the legal issue of misclassification and DOLI is guided by statute and compliance regarding the contract relationships defined in those statutes. There are also OSHA requirements for the site itself, but those requirements do not extend DOLI's jurisdiction to the independent contractor relationships.

Co-Chair Bundy asked for other items of interest from the Members of the Board. There were none so she called for adjournment of the meeting. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

MEETING ADJOURNMENT

Co-Chair Bundy adjourned the meeting at 11:25 am.