

The Honorable Larry Hogan
Governor of Maryland
Maryland State House
100 State Circle
Annapolis, MD 21401-1925

August 11, 2020

Dear Governor Hogan:

The undersigned unions, public health professionals, advocates, workers, faith leaders, and Maryland residents call on you to act immediately to issue an executive order requiring the Maryland Occupational Safety and Health (MOSH) division of the Department of Labor, Licensing and Regulation (DLLR) to adopt an emergency standard to protect our state's workers from the novel coronavirus, SARS-Co-V-2.

The Maryland District of Columbia AFL-CIO (MDDC AFL-CIO) submitted a petition to your office on May 27, 2020, calling for an emergency temporary standard to address COVID exposure, but your office has not responded. (See Attachment A). On July 8, over two dozen public health professionals sent a letter to your office in support of the MDDC AFL-CIO petition and urging your office to act. (Attachment B). On May 20 and July 10, the Maryland Smart on Pesticides Coalition sent letters and materials to your office imploring you to protect Maryland workers, and to specifically safeguard our state's food and farm worker community, which is suffering disproportionately from COVID-19; you have also declined to act. (See Attachment C). We join together now, along with numerous federal, state, and local allies in solidarity to resubmit the MDDC AFL-CIO petition and the Smart on Pesticides Coalition July 10th letter.

The coronavirus pandemic is again surging across our great state, threatening the lives of Maryland workers and residents, our healthcare resources, our state and local tax revenues, and our small businesses. There is already ample evidence of the disproportionate impact of the pandemic on the health of those essential workers who have never stopped working. Further, Black and Latinx workers, and other workers of color, in the state of Maryland are more likely to be in frontline jobs and these communities have disproportionate rates of illness and death related to COVID-19. Although we understand you are determined to keep Maryland "open for business" despite the troubling rise of infections after you began reopening, you can still act to protect our state's workforce from preventable harm by requiring employers to adopt basic, reasonable, and commonsense safety measures. These measures would allow

Maryland to continue to reopen in a smart, sustainable way that benefits workers, consumers, and businesses alike.

In doing so, you would join the scores of other Governors and states working to reopen responsibly by recognizing the importance of protecting the workforce that provides the labor that is essential to the economy. For example, our neighbors in Virginia recently adopted an emergency standard to protect workers from COVID-19, and Oregon is currently working to adopt similar provisions. Additionally, thirteen other Governors have taken action to protect workers. At a minimum, we urge you to adopt the provisions detailed in the MD/DC AFL-CIO petition, and the provisions detailed in the Jul 10th Smart on Pesticides letter (Attachment C) which outlines specific protections needed for the farmworker, poultry and seafood industry workers, many of whom are seasonal migrant workers, as well as from these state models that would benefit Maryland workers.

These petitions are particularly urgent given that the Maryland Occupational Safety and Health (MOSH) standards currently in place fail to adequately protect workers' health and safety. There is currently no infectious disease standard. The law mandates that employers protect their workers from known hazards and MOSH can rely on the "General Duty Clause" to cite employers for exposing workers to the coronavirus. However, to date, MOSH has not cited any employers under this provision for failing to protect workers in poultry plants, nursing homes, hospitals, farms, public transit and other high exposure risk workplaces. An emergency temporary standard would squarely address the risks of COVID-19 and provide MOSH with clear authority to act. Employers and workers would benefit. Employers who provide basic protections like gloves, masks, and social distancing requirements would thrive - their workers would report to work healthy. Those employers who ignore the rules and put workers and consumers at risk would face consequences, as we all agree they rightly should.

It is imperative that you act now to issue an executive order to prevent more Marylanders from dying of coronavirus and to prevent mass strain on our healthcare resources, and to prevent our state economy from shuttering once more. You proved to be a leader for Maryland in the early days of the coronavirus by prioritizing the health and safety of Marylanders, recognizing that Maryland's workforce keeps businesses open and supports the economy, and closing our state until we were able to stabilize somewhat. We urge you to again stand up and lead the way now by ensuring Maryland's frontline workers and those returning to work amid the pandemic can do so confident they will return home to their families free from illness and without spreading disease to their loved ones.

Mandating an emergency temporary standard to protect Maryland workers is not only the best course of action to safeguard our residents, businesses, and economy, it is also the most morally and socially responsible way forward for our state.

Sincerely,

Center for Progressive Reform

Centro De Los Derechos Del Migrante, Inc.

Clean Water Action

Maryland Food and Water Watch

Maryland District of Columbia AFL-CIO

Maryland Smart on Pesticides Coalition

Metro Washington Council AFL-CIO

National Council for Occupational Safety & Health

National Employment Law Project

Public Justice Center

Southern Poverty Law Center

United Food & Commercial Workers

CC: Matt Helminiak - Maryland Commissioner of Labor and Industries

Tiffany Robinson - Maryland Secretary of Labor

Adrienne Jones - Speaker of the Maryland House

Brian Ferguson - President of the Maryland Senate

Joint COVID - 19 Response Legislative Work Group

ATTACHMENT A



MARYLAND STATE and D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

7 Schol Street ▪ Annapolis, MD 21401-2096
Office (410) 269-1940 ▪ Fax (410) 280-2956

President

Donna S. Edwards

Secretary Treasurer

Gerald W. Jackson

The Honorable Larry Hogan
Governor, State of Maryland
100 State Circle
Annapolis, MD 21401

May 27, 2020

Dear Governor Hogan,

We, the undersigned are petitioning the State of Maryland to adopt an emergency temporary standard (ETS) for COVID workplace protection as a critical component of the State's plan to address and recover from the unprecedented coronavirus pandemic. The State has the legal authority in accordance with enabling Maryland law, and as part of its agreement with the federal Occupational Safety and Health Administration (OSHA), to develop and implement an ETS. Current Maryland Occupational Safety and Health (MOSH) standards fail to adequately guarantee workers a safe workplace at reduced risk of SARS Co-V-2 exposure, and the current guidance from the Centers for Disease Control and Prevention (CDC) and OSHA for essential workers is too broad and inadequate.

Hundreds of thousands of Maryland workers are at risk of exposure. Everyone recognizes the heightened exposure threat to all levels of health care staff-nurses, aides, cooks and maintenance workers in hospitals, nursing and senior facilities and in-home care, and our first responders – firefighters, police and EMTs. Other essential workers delivering critical services also have heightened exposure risks including: grocery store workers, transit workers, protective services social workers, skilled construction trades workers, postal workers, delivery workers, farm workers, corrections officers, public sector workers at all levels of government, and countless others.

Infections and fatalities in Maryland are starting to flatten, but they continue to rise, nonetheless. When essential workers get sick it impacts everyone. It leads to staffing shortages in critical industries that are desperately needed by the public and it elevates the stress of the worker's family and community.

We have witnessed how essential our health institutions, public safety, crucial public services and income safety nets, and the common every-day needs of groceries, postal services, and trash collection are to sustaining our communities during a major crisis. The State must protect workers who are currently on the job, as well as those who will be returning to work through

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the Governor's phased-in re-opening of the State. To adequately protect our essential workers – and all workers – MOSH should issue an Emergency Temporary Standard (ETS) that would require worker protections, including:

- A hazard assessment of job tasks and the worksite to identify potential exposures conducted in collaboration with employees and their exclusive bargaining representative
- An employer written COVID (SARS-Co-V2) exposure control plan, reviewed by MOSH, to address the exposure hazards at every worksite
- Appropriate protections to address those hazards including:
 - Engineering controls – increased ventilation and barriers
 - Administrative controls to assure social distancing – spacing of workstations etc., scheduling alteration to reduce exposure, signage
 - Personal protective equipment industry specific
 - N-95 Masks
 - Testing for employees in confined environments and those with consistent exposure to the public
 - Access and opportunities for frequent handwashing
 - Effective cleaning and disinfection of the worksite and equipment
 - Training on the coronavirus and symptoms and the employer's control plan
 - Coordination with MOSH and the state and local health departments

COVID-19 is a new and dangerous hazard for employers and employees. To help address the crisis the state needs to also increase funding for the MOSH to allow the agency to provide assistance to employers as they develop exposure control plans, assess their worksites and pursue efforts to protect their employees. MOSH is core to the sound public health response to workplace issues.

A failure to act now is a failure to prevent more infections and deaths. Failure to implement ETS severely limits our state's ability to fight this pandemic, exacerbating and lengthening its deadly effects on the lives of all Marylanders. An Emergency Temporary Standard, mandating such protections, is required for Maryland now. The elements that must be included in an ETS have been attached to this letter for your review and to provide a framework in which to craft and implement an ETS for Maryland. Your bold and decisive action is required to make this happen.

Thank you,

Donna S. Edwards
President
Maryland State and DC AFL-CIO

Cc: Tiffany Robinson, Secretary of Labor tiffany.robinson@maryland.gov
Matthew S. Helminiak, Commissioner of Labor and Industry matt.helminiak@maryland.gov
Robert R. Neall, Secretary, Maryland Department of Health robert.neall@maryland.gov
William Ferguson, President, Maryland State Senate bill.ferguson@senate.state.md.us

ATTACHMENT A

Adrienne Jones, Speaker, Maryland House of Delegates Adrienne.jones@house.state.md.us
Signatories and Affiliations Attached

ATTACHMENT B

HEALTH PROFESSIONALS FOR WORKER COVID PROTECTIONS

July 8, 2020

Dear Governor Hogan,

We, the undersigned health professionals in Maryland, are writing to urge you to take immediate steps to enact a Maryland (MOSH) Emergency Temporary Standard to protect workers from COVID exposure at work as petitioned by the Maryland District of Columbia AFL-CIO (MDDC AFL-CIO). We remain in a pandemic for the foreseeable future and working people need the guarantee of protection until its end.

As Drs. Anthony Fauci of NIH and Robert Redfield of CDC recently pointed out in Congressional testimony, the threat of community spread of SARS-CoV-2 remains a heightened concern until effective vaccines and therapies become available. Cases may be declining in our state, but with reopening many people are returning to work and the risk of exposure may increase in the coming months, especially with an anticipated fall-winter second wave of transmission and infection. Workers must be assured a safe workplace.

Many people are required to return to work, and will lose unemployment benefits if they don't, even if they fear for their health and are not convinced their employer is protecting them sufficiently from the virus.

Maryland OSHA has guidance but little ability to enforce safe conditions. The "General Duty Clause" is difficult to enforce and whistleblower protections are insufficient to protect workers who speak up about unsafe conditions. Virginia is moving forward rapidly in setting such an emergency standard which could be used as a model. You have the authority to set such a standard and quickly protect Maryland workers from exposure thus preventing a second wave. We appreciate the thoughtful and careful way you have responded to this crisis by relying on the science and data to guide the reopening effort. Setting an ETS for COVID exposures is an essential step towards preventing a resurgence and also protecting future such pandemics. Workers should not have to fear for their health when they go to work. An ETS will assure them that work will be a safe place for them and their families and continue to slow the spread and defeat this threat.

You are fortunate that here in Maryland, you have a wealth of expertise to draw upon- including many of us who have signed this letter - to rapidly develop and promulgate an emergency temporary standard.

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Act now.

Darryl Alexander Former Head of Occupational Safety and Health American Federation of Teachers- Takoma Park, MD
James August Former Director of Occupational Safety and Health for AFSCME- Bethesda, MD
Jordan Barab Former Deputy Assistant Secretary of Labor for OSHA- Takoma Park, MD
Debbie Berkowitz Worker Safety and Health Program Director, National Employment Law Project- Bethesda, MD
Victoria L. Bor Attorney – Chevy Chase, MD
Bill Borwegan Principal-Prevention at Work, LLC, Former Director of Occupational Safety and Health for the Service Employees International Union- Annapolis, MD
Chris Cain Executive Director of CPWR, the Center for Construction Research and Training- Silver Spring, MD
Neil Davis Former Senior Industrial Hygienist OSHA Health Standards Office- Bethesda, MD
Earl Dotter Occupational and Environmental Health Photojournalist;
Visiting Scholar, Harvard School of Public Health- Silver Spring, MD
Richard Fairfax, ORC HSE and retired Deputy Assistant Secretary for OSHA- Frederick, MD
Janie Gordon Retired Health Professional- Baltimore, MD
Bill Kojola Industrial Hygienist- Silver Spring, MD
Dave LeGrande Former Director of Occupational Safety and Health, Communications Workers of America- Olney, MD
Dr. Amy Liebman Director of Occupational and Environmental Health, Migrant Clinician's Network- Salisbury, MD
Dr. Bruce Lippy CIH, CSP, FAIHA, President, The Lippy Group, LLC
Jane Lipscomb PhD, Retired Professor, UMB- Annapolis, MD
Melissa McDiarmid MD, MPH Occupational Medicine Physician- Baltimore, MD
Dr. David Michaels Professor, Department of Environmental and Occupational Health, Milken Institute School of Public Health of George Washington University
Assistant Secretary of Labor for the Occupational Safety and Health Administration (2009-2017)- Bethesda, MD
Lyn Penniman Former Director of the OSHA Office of Physical Hazards, Directorate of Standards and Guidance- Bethesda, MD
Dr. Jim Platner Retired Associate Director of CPWR- The Center for Construction Research and Training- Severna Park, MD
Rebecca Reindel MS, MPH Safety and Health Director, AFL-CIO- Silver Spring, MD
John Rekus MS, PE FAIHA MOSH technical coordinator for occupational health 1984-1994
Towson, MD
Robyn Robbins Director of Occupational Safety and Health, UFCW International- Silver Spring, MD
Scott Schneider MPH, CIH, FAIHA Former Director of Occupational Safety and Health for the Laborers' Health and Safety Fund of North America- Silver Spring, MD
Peg Seminario Former Director Occupational Safety and Health for the AFL-CIO- Bethesda, MD
Dr. Rosemary Sokas MD, MOH Professor, Department of Human Science;

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Georgetown University School of Nursing and Health Studies, Professor, Department of Family Medicine, Georgetown University School of Medicine- Silver Spring, MD

Pete Stafford Former head of CPWR- The Center for Construction Research and Training- Gaithersburg, MD

Dr. Laurie Welch MD, FACP Occupational Physician, Former Medical Director for CPWR and the Sheet Metal Workers Union- Takoma Park, MD

* Affiliations for informational purposes only

For more information, Contact Scott Schneider (Hardhatscott@gmail.com) or Darryl Alexander (Darrylalex@gmail.com)

CC Matt Helminiak -Maryland Commissioner of Labor and Industries
Tiffany Robinson- Maryland Secretary of Labor
Adrienne Jones- Speaker of the Maryland House
Brian Ferguson- President of the Maryland Senate
Donna Edwards, President Maryland DC AFL-CIO
Eli Rosenberg, The Washington Post
Michael Miller, The Washington Post

**Maryland Smart on Pesticides Coalition's
Agriculture Worker Protection Workgroup**

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July 10, 2020

The Honorable Larry Hogan
Governor of Maryland
Maryland State House
100 State Circle
Annapolis, MD 21401-1925

Robert R. Neall
Secretary of Health
Md. Dept. of Health
201 W. Preston Street
Baltimore, Maryland 21201

Tiffany P. Robinson, Esq.
Secretary of Labor
Md. Dept of Labor
500 North Calvert Street
Baltimore, MD 21202

Re: Follow-up to 5/20 letter - Protecting Farmworkers and Migrant Workers During the COVID-19 Pandemic

Dear Governor Hogan, Secretary Neall, and Secretary Robinson:

We appreciate all you have done to date, to protect essential workers in Maryland's poultry, seafood processing and agriculture industry. We are writing to follow-up regarding our May 20th letter, for which we have yet to receive a response.

In the interim, circumstances have evolved in matters concerning additional needed COVID-19 protections for these workers in our state, including the arrival of new workers for Maryland's harvest season.

The attached document identifying these concerns and needed protections has been developed by Maryland Smart on Pesticides Coalition, comprised of 105 organizations and businesses, as well as other organizations directly involved in the field with farm/poultry/seafood worker health and safety issues in Maryland. We are the largest non-government working group focused on these worker health and safety issues in our state. Workgroup members include CATA – the Farmworkers Support Committee, Migrant Clinicians Network, Centro de los Derechos del Migrante, Inc., Farmworker Justice, Earthjustice, Friends of the Earth, Maryland Clean Water Action, Chesapeake Physicians for Social Responsibility, Environment Maryland, Maryland Pesticide Education Network, Center for Progressive Reform, Public Justice Center and ACLU-Maryland.

We urge the State to make the protections outlined in this document mandatory and enforceable, by emergency Executive Order, and to move this initiative forward without delay. We look forward to your prompt response and are willing to help the State to continue to refine and improve all aspects of Maryland's COVID-19 emergency planning.

Thank you.

Sincerely,

Ruth Berlin

Ruth Berlin, LCSW-C
Executive Director,

Maryland Pesticide Education Network, facilitator for the [Maryland Smart on Pesticides Coalition](#)

Attachment: Updated COVID-19 Concerns and Protections for Maryland Farmworkers, Poultry and Seafood Processing Workers, [also downloadable here](#).