

United States Senate

WASHINGTON, DC 20510

March 9, 2020

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Ave., NW
Washington DC 20210

Dear Secretary Scalia:

In light of the evolving 2019 Novel Coronavirus (COVID-19) outbreak and its rapid spread both worldwide and in the United States, we write urging you to direct the Occupational Safety and Health Administration (OSHA) to issue a comprehensive Emergency Temporary Standard (ETS) to protect all workers against COVID-19. Furthermore, we request that you place the Infectious Disease Standard back on the Department of Labor's (DOL) active regulatory agenda and dedicate all available resources to move to final promulgation of the rule.

As you are aware, Section 6(c)(1) of the Occupational Safety and Health Act provides only two conditions for issuing an ETS:

(A) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and

(B) that such emergency standard is necessary to protect employees from such danger.

Based on both the current and anticipated conditions, we believe it is timely for OSHA to issue an ETS to protect workers from COVID-19. Recently, the country has seen growing community transmission of COVID-19 across multiple states. Hundreds of health care workers have been exposed to patients with COVID-19 and some have been infected or quarantined. Thousands more first responders, flight attendants, pilots, public transportation workers, TSA screeners, baggage handlers, and social workers are similarly on the frontline and have been, or are likely to be, exposed to COVID-19. The total number exposed and infected is assuredly higher than has been detected at this time because of the non-symptomatic nature of some infections, the limited availability of test kits, and narrow criteria initially set by the Centers for Disease Control and Prevention (CDC) for testing.

The AFL-CIO, our country's largest federation of labor unions, along with 22 union signatories, and the National Nurses United, which represent frontline health care workers helping to care for patients during this public health emergency, both recently filed petitions with OSHA requesting that an ETS be immediately issued. In addition, Senator Patty Murray, Ranking Member of the Health, Education, Labor, and Pensions (HELP) Committee wrote to you seeking answers on how DOL would be addressing the COVID-19 crisis and how it would be communicating

information about the virus from federal public health officials to workers and businesses. Members of Congress, major organizations representing working people, and our constituents are demanding decisive action from the Department in response to the growing COVID-19 crisis.

The conditions on the ground seem to many observers to already satisfy the legal standards in the Occupational Safety and Health Act to justify OSHA issuing an ETS as health care workers, as well as other workers whose jobs involve interaction with the public, are clearly being exposed to “grave danger” through exposure to the COVID-19 virus. It would present a very real threat to our health care system and public health response if, due to OSHA failing to issue an ETS that could protect them, health care workers are quarantined in large numbers, fear coming to work due to the risks associated with this pandemic, fall ill from COVID-19, or even die. Furthermore, by not issuing an ETS, you will be failing to protect the countless other workers who are at elevated risk of being exposed to COVID-19 simply through their normal job duties.

As you are aware, OSHA is the primary agency in the federal government authorized to enforce safe working conditions for our nation’s workers. As our nation’s response to COVID-19 continues and ramps up, it is imperative that you take a leadership role in protecting all workers during this public health emergency. For that reason, we reiterate the necessity for the issuance of an Emergency Temporary Standard to protect workers from COVID-19 and for you to put the infectious disease standard back on the active regulatory agenda.

We request a written response outlining your plan to address this crisis by March 15, 2020. We also request an immediate briefing from you or your designee by March 27, 2020.


Sincerely,



Robert Menendez



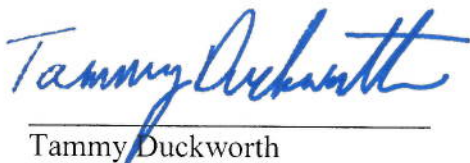
Patty Murray



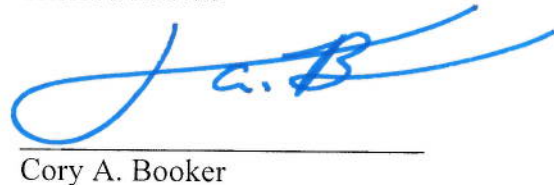
Tammy Baldwin



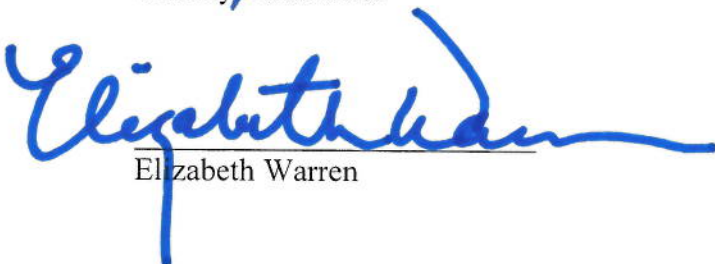
Sherrod Brown



Tammy Duckworth



Cory A. Booker



Elizabeth Warren