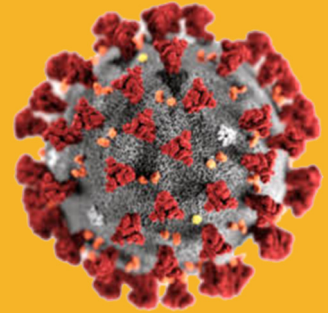




TEAMSTERS SAFETY & HEALTH COVID-19 Guidance



Virginia Infectious Disease Emergency Temporary Standard to Protect Workers from COVID-19

March 12, 2021

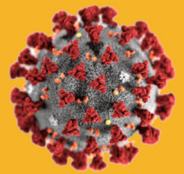
The State of Virginia is the first in the nation to issue an *Emergency Temporary Standard (ETS) for Infectious Disease Prevention: SARSCoV-2 Virus That Causes COVID-19*,¹ designed to establish requirements for employers to control and prevent the spread of SARS-CoV-2, the virus that causes coronavirus disease 2019 (COVID-19), to and among employees and employers. The Virginia Occupational Safety and Health (VOSH) Program will enforce the standard which became **effective on July 27, 2020**. The standard will be in place for six months and would be eligible to become permanent.

Virginia is a “State Plan” state that operates its own occupational safety and health program under an OSHA grant. There are 27 other “State Plan” states that also might consider similar COVID-19 standards.

The ETS mandates — and, in some instances, exceeds — guidance issued by the U.S. Centers for Disease Control and Prevention (CDC) and the federal Occupational Safety and Health Administration (OSHA). The standard states that employers who follow guidelines and recommendations set by the CDC on disease-related hazards or job tasks would be found in compliance as long as those provide equivalent or greater protection than provided by a provision of this standard.

The IBT has petitioned federal OSHA to issue a COVID-19 ETS rather than have employers rely solely on existing OSHA regulations and new COVID-19 guidance but OSHA has not adopted such a standard.

1. Virginia Emergency Temporary Standard: Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19 16VAC25-220, <https://www.doli.virginia.gov/wp-content/uploads/2020/07/RIS-filed-RTD-Final-ETS-7.24.2020.pdf>



WHO IS COVERED?

The new standard covers most private employers in Virginia, as well as all state and local employees.

WHAT IS REQUIRED OF EMPLOYERS?

Employers shall comply with the following control and prevention measures.

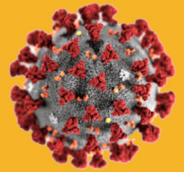
HAZARD ASSESSMENT

- Assess the workplace for hazards and job tasks that could potentially expose employees to the SARSCoV-2 virus or COVID-19 disease. Employers must classify each job task according to the hazards employees are potentially exposed to and comply with applicable sections of the ETS for “very high,” “high,” “medium,” or “lower” risk levels of exposure.
- Establish and implement a system for employee self-assessment and screening for COVID-19 signs and symptoms, based on specific requirements by risk classification.
- Encourage employees to report symptoms by ensuring they are aware of any company sick leave policies and alternative working arrangements, as well as the paid sick leave available through the Families First Coronavirus Response Act (FFCRA).

CONTROL MEASURES: Engineering, Administrative/Work Practices, and Personal Protective Equipment

Establish and implement control measures that will prevent sick employees and other persons from infecting healthy employees, in the order of highest to lowest control:

- **Engineering controls**, which involve the use of substitution, isolation, ventilation, and equipment modification to eliminate or significantly reduce employee exposure to reduce exposure to SARS-CoV-2 virus and COVID-19 disease-related workplace hazards and job tasks. Examples are appropriate air-handling systems and, to the extent feasible, physical barriers, (e.g., clear plastic sneeze guards, etc.).
- **Administrative and work practice controls** ensuring that employees observe physical distancing while on the job and during paid breaks. These would include, but not be limited to:
 - Increasing physical distancing between employees and between employees and other persons, including customers at the worksite, to six feet.
 - Providing flexible sick-leave policies, telework, staggered shifts, and other administrative and work practice controls, when feasible, to reduce or eliminate contact with others inside six feet.



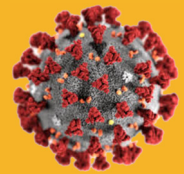
- Requiring employees to comply with the safety and health practices outlined in the ETS related to sanitation, disinfection, and handwashing.
- Requiring employers to provide and employees to wear face coverings if they cannot feasibly practice physical distancing from another employee or person and if personal protective equipment, such as respirators or surgical/medical procedure masks, are not found to be required for the job task.
- Providing and requiring employees in customer-facing jobs to wear face coverings.
- Employee use of face coverings for contact inside six feet of coworkers, customers, or other persons is not an acceptable administrative or work practice control to achieve minimal occupational contact. However, when it is necessary for an employee to have brief contact with others inside the six feet distance a face covering is required.

Face covering” means an item normally made of cloth or various other materials with elastic bands or cloth ties to secure over the wearer’s nose and mouth in order to contain or reduce the spread of potentially infectious respiratory secretions at the source (i.e., the person’s nose and mouth). A face covering is not intended to protect the wearer, but it may reduce the spread of the virus from the wearer to others. A face covering is not a surgical/medical procedure mask. A face covering is not subject to testing and approval by a state or government agency, so it is not considered a form of personal protective equipment or respiratory protection equipment under VOSH laws, rules, regulations, and standards.

- **Personal protective equipment (PPE)** to employees and ensuring its proper use when other workplace controls such as engineering controls, work practice changes, and social distancing do not provide sufficient protection.

Employees classified as very high or high exposure risk shall be provided with and wear gloves, a gown, a face shield or goggles, and a respirator when in contact with or inside six feet of patients or other persons known to be or suspected of being infected with SARS-CoV-2. Where indicated by the hazard assessment, such employees shall also be provided with and wear a surgical/medical procedure mask.

Although the ETS does not require the use of a respirator, surgical/medical procedure mask, or face when doing so would be contrary to an employee's health or safety because of a medical condition, the employer would still have an obligation to comply with personal protective equipment and respiratory protection standards applicable to its industry.



INFECTIOUS DISEASE PREPAREDNESS AND RESPONSE PLAN

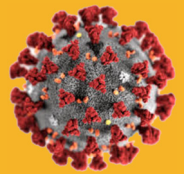
An employer with eleven or more employees and jobs classified as ‘medium’ risk; or an employer with any number of employees and jobs classified as ‘high’ or ‘very high’ risk, must prepare an *Infectious Disease Preparedness and Response Plan* and train employees on the practices within 60 days of the effective date of the ETS (by September 25, 2020).

The Plan shall:

- Identify the name or title of the person responsible for administering the plan. This person shall be knowledgeable in infection control principles and practices that apply to the facility, service, or operation;
- Provide for employee involvement in development and implementation of the plan;
- Consider and address the level of SARS-CoV-2 virus and COVID-19 disease risk associated with various places of employment, the hazards employees are exposed to at those sites, and job tasks employees perform at those sites;
- Consider contingency plans for situations that may arise as a result of outbreaks;
- Identify basic infection prevention measures to be implemented;
- Provide for the prompt identification and isolation of known or suspected to be infected with the SARS-CoV-2 virus employees away from work, including procedures for employees to report when they are experiencing symptoms of COVID-19;
- Discuss infectious disease preparedness and response with those who enter the place of employment and businesses that provide contract or temporary employees to the employer;
- Identify the mandatory and non-mandatory recommendations in any CDC guidelines or Commonwealth of Virginia guidance documents the employer is complying with, if any, in lieu of a provision of this standard;
- Comply with mandatory requirements of any applicable Virginia executive order or order of public health emergency related to the SARS-CoV-2 virus or COVID-19 disease.

TRAINING

Employers with medium, high, and very high-risk workplaces must provide COVID-19 training to employees within 30 days of the effective date (by August 26, 2020). Lower-risk places of employment must provide employees with basic written or oral information on COVID-19 hazards and measures to minimize exposure.



The training shall include:

- The requirements of this standard;
- The mandatory and non-mandatory recommendations in any CDC guidelines or State of Virginia guidance documents the employer is complying with, in place of a provision of this standard;
- The manner of transmission of the SARS-CoV-2 virus;
- The signs and symptoms of the COVID-19 disease;
- Risk factors of severe COVID-19 illness with underlying health conditions;
- Awareness of the ability of pre-symptomatic and asymptomatic COVID-19 persons to transmit the SARS-CoV-2 virus;
- Safe and healthy work practices, including but not limited to, physical distancing, disinfection procedures, disinfecting frequency, ventilation, noncontact methods of greeting, etc.;
- Personal protective equipment (PPE);
- The anti-discrimination provisions; and
- The employer's Infectious Disease Preparedness and Response Plan, where applicable.

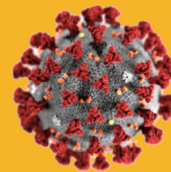
RETURN TO WORK

- Establish and implement procedures to ensure employees known or suspected of having COVID-19 do not come to work, as well as procedures for them to return to work. This return to work policy must include:
 1. Prohibiting employees known or suspected of having COVID-19 from reporting to work until they have been cleared to return through either a symptom-based or test-based strategy.
 2. If a test-based strategy is not used, consultation with appropriate healthcare professionals concerning when an employee's symptoms indicate it is safe for them to return to work.

EXPOSURE AND CASE NOTIFICATION

Employers shall establish and implement a system to receive reports of positive SARS-CoV-2 tests and a system for notifying employees, building owners and tenants, and other employers of workplace exposures to the virus and suspected or confirmed cases so that they can take personal actions to protect their health and safety.

The employer shall also notify the Virginia Department of Health within 24 hours of the discovery of a positive case and the Virginia Department of Labor and Industry within 24 hours of the discovery of three or more employees present at the place of employment within a 14-day period testing positive for SARS-CoV-2 virus.



ANTI-DISCRIMINATION

The standard protects employees from being discharged or discriminated against in any way because the employee:

- Exercises rights under the safety and health provisions of this standard,
- Voluntarily provides and wears the employee's own personal protective equipment, including but not limited to a respirator, face shield, or gloves, or face covering if such equipment is not provided by the employer, provided that the PPE does not create a greater hazard to the employee or create a serious hazard for other employees.
- Raises a reasonable concern about infection control related to the SARS-CoV-2 virus and COVID-19 disease to the employer, the employer's agent, other employees, a government agency, or to the public such as through print, online, social, or any other media.
- Refuses to do work or enter a location that the employee feels is unsafe. 6VAC25-60-110, *Whistleblower Discrimination; Discharge or Retaliation; Remedy for Retaliation*², contains the requirements concerning discharge or discipline of an employee who has refused to complete an assigned task because of a reasonable fear of injury or death.

RESOURCES

- Virginia Emergency Temporary Standard: Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19 16VAC25-220: <https://www.doli.virginia.gov/wp-content/uploads/2020/07/RIS-filed-RTD-Final-ETS-7.24.2020.pdf>
- Outreach, education, and training materials for the ETS can be found at: <https://www.doli.virginia.gov/covid-19-outreach-education-and-training/>
- A workplace poster will be made available free of charge by VOSH at www.doli.virginia.gov.

² Whistleblower Discrimination; Discharge or Retaliation; Remedy for Retaliation, <https://law.lis.virginia.gov/admincode/title16/agency25/chapter60/section110/>