



VACORP

DOLI Amended Final Permanent Standard Update

DOLI Standard

16 VAC 25-220, Final Permanent Standard for
Infectious Disease Prevention of the SARS-CoV-
2 Virus that Causes COVID-19



Standard Timeline

- Emergency Temporary Standard – July 27, 2020
 - Training requirements – Aug 26, 2020.
 - Infectious Disease Preparedness and Response (IDPR) Plan requirements – Sept 25, 2020.
- Final Permanent Standard – Jan 27, 2021
 - Written Response Plan and Training – Mar 26, 2021
- Amended Final Permanent Standard – Sept 8, 2021
 - IDPR Requirements – Oct 8, 2021
 - Training Requirements – Nov 7, 2021



Significant Changes

- **Low, medium, high, and higher** risk assessment has been eliminated in favor of a community transmission standard.
- Recognizes a **distinction** between **vaccinated** and **unvaccinated** employees
- Employers must include a method to receive **anonymous complaints** of violations.

Significant Changes

The amended VA FPS removes the requirements that employers must assess the Exposure Risk Level of jobs/tasks and categorize each as lower, medium, high, or higher.

Instead, employers must:

- Assess the workplace for hazards and job tasks that can potentially expose employees to COVID-19 disease.
- Monitor the level of community transmission where their worksite is located.
- Identify employees who are fully vaccinated.

Community Transmission

- The level of community transmission for an area is categorized as low, moderate, substantial, or high.
- Community transmission for a give area can be monitored through websites maintained by the Virginia Department of Health (VDH) or the Center for Disease Control (CDC):
 - <https://www.vdh.virginia.gov/coronavirus/covid-19-in-virginia/community-transmission/>
 - <https://www.cdc.gov/TemplatePackage/contrib/widgets/covidcountycheck/>



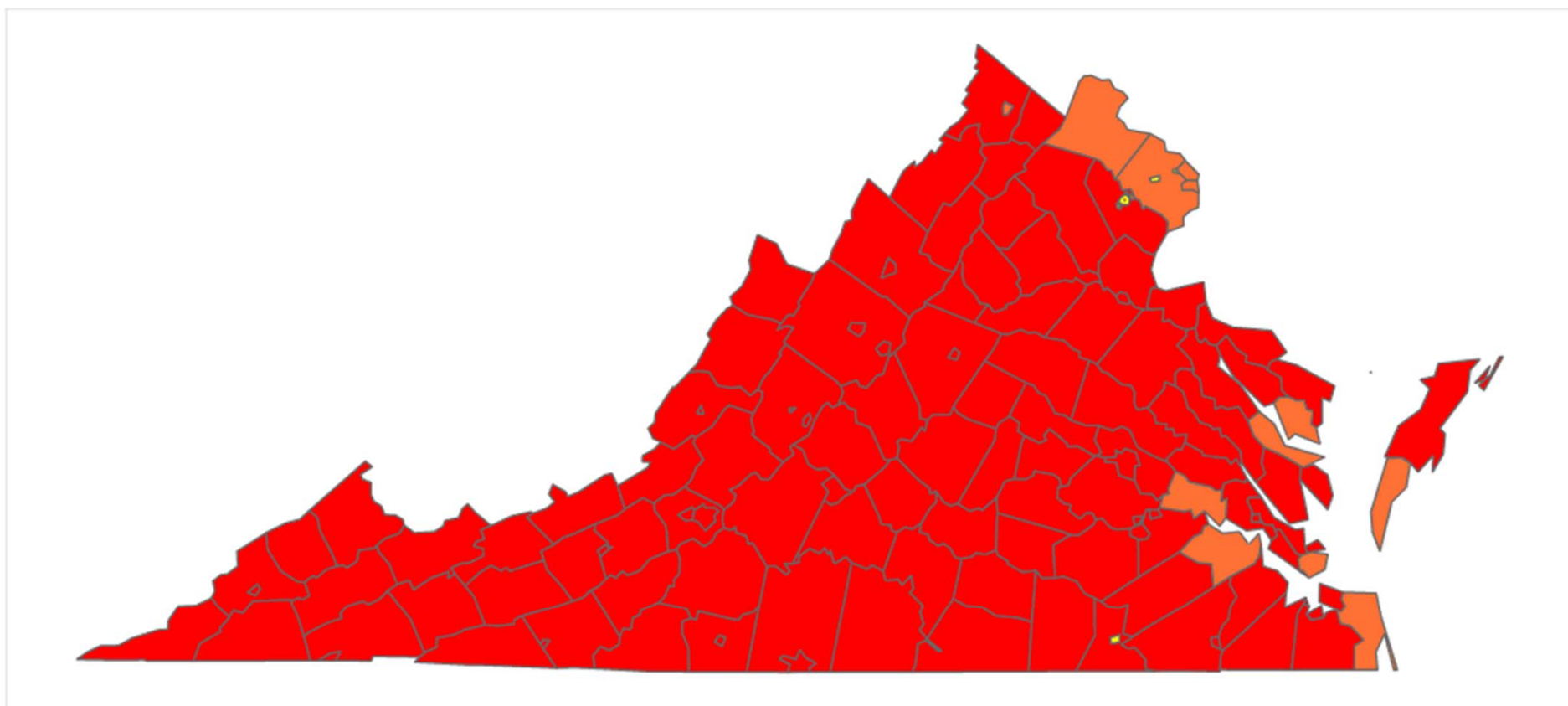
Level of Community Transmission



State, Region or Locality selector for map

Updated weekly on Mondays using data through previous Saturday, Last updated 10/25/2021

Locality



Region or Locality Selector

Accomack

Transmission Level

High

Cases

191.9

Percent Positivity

9.9%

Transmission Level



COVID-19 County Check

Find community transmission levels and masking guidance by county.

Select a Location

[Go](#)

[< Start Over](#)

● Substantial Transmission

In **Arlington County, Virginia**, community transmission is **Substantial Transmission**.

Everyone should wear a mask in public indoor settings.

Mask requirements might vary from place to place. Make sure you follow local laws, rules, regulations or guidance.

October 27, 2021

Find out more about the COVID-19 situation in your area with the [COVID Data Tracker](#).

[How are these data calculated?](#)

Add This Widget To Your Site

16VAC25-220-10.D

- Language relating to exposure risk levels was removed.

16VAC25-220-10.E.

- Compliance with ***current*** CDC guidance is considered compliance with the standard
- Eliminates condition that CDC guidance offers “equivalent or greater protection” than the standard

16VAC25-220-10.F & G

- Language relating to public or private institutions of higher education reopening plans (10.F) and public school division and private school reopening plans (1o.F) was removed.

16VAC25-220-20

- Effective dates were revised:
 - The requirements of this chapter shall take effect on September 8, 2021 except where otherwise noted.
 - The requirements for 16VAC25-220-70 shall take effect on October 8, 2021.
 - The training requirements in 16VAC25-220-80 shall take effect on November 7, 2021.

16VAC25-220-30

- Various changes were made to the definitions sections
 - Additions
 - Modifications
 - Removals

16VAC25-220-40

- Changes were made to reflect revised requirements for employees who are fully vaccinated and for those employees who are not fully vaccinated or otherwise at risk; and to reflect revised CDC procedures for cleaning and/or disinfecting surfaces.

16VAC25-220-40.A

A. Employers shall have a policy in place to ensure compliance with the requirements in this section to protect employees from workplace exposure to the SARS-CoV-2 virus that causes the COVID-19 disease. Such policy shall have a **method to receive anonymous complaints of violations.** An employer that enforces its policy in good faith and resolves filed complaints shall be considered in compliance with this subsection.

16VAC25-220-40.B.1

B. Exposure assessment and determination, notification requirements, and employee access to exposure and medical records.

1. Employers shall assess their workplace for hazards and job tasks that can potentially expose employees to the SARS-CoV-2 virus or COVID-19 disease. Tasks that are similar in nature and expose employees exposed to the same hazard may be grouped for classification purposes. **Employers may rely on an employee's representation of being fully vaccinated, as defined by this chapter without requiring proof of vaccination; however, nothing in this chapter shall be construed to preclude an employer from requiring proof that an employee is fully vaccinated.**

16VAC25-220-40.B.7.e

The requirement for employers to notify the Department of Labor and Industry (DOLI) of **three** or more cases within a 14 day period is changed to **two** or more cases to be consistent with a similar requirement to report such cases to the Virginia Department of Health.

16VAC25-220-40.C.1-3

C. Return to work. Employers shall develop and implement policies and procedures for suspected or confirmed COVID-19 employees to return to work.

1. If the employer knows an employee is COVID-19 positive, regardless of vaccination status then the employer must immediately remove that employee from the work site and keep the employee removed until they meet the return to work criteria in subdivision C 3 of this section.

2. If the employer knows an employee is suspected COVID-19, regardless of vaccination status then the employer must immediately remove that employee from the work site and either:

16VAC25-220-40.C.1-3

a. Keep the employee removed until they meet the return to work criteria in subdivision C 3 of this section; or

b. Keep the employee removed and provide a COVID-19 **polymerase chain reaction (PCR) test** at no cost to the employee.

(1) If the test results are **negative**, the employee may return to work **immediately**.

(2) If the test results are **positive**, the employer must comply with subdivision **C 1** of this section.

(3) If the employee **refuses to take the test**, the employer must continue to keep the employee removed from the workplace consistent with subdivision **C 1** of this section. Absent **undue hardship**, employers must make **reasonable accommodations** for employees who cannot take the test for **religious or disability-related medical reasons**.

16VAC25-220-40.C.1-3

3. The employer must make decisions regarding an employee's return to work after a COVID-19-related workplace removal in accordance with guidance from a licensed **health care provider**, a **VDH** public health professional, or **CDC's "Isolation Guidance"** (hereby incorporated by reference); and CDC's "Return to Work Health care Guidance" (hereby incorporated by reference). If an employee has a known exposure to someone with COVID-19, the employee must follow any testing or quarantine guidance provided by a VDH public health professional.

16VAC25-220-40.G

G. Employers shall provide and require employees that are **not fully vaccinated, fully vaccinated employees in areas of substantial or high community transmission,** and otherwise **at-risk employees** (because of a prior transplant or other medical condition) to **wear face coverings** or surgical masks while **indoors**, unless their work task requires a respirator or other PPE. Such employees shall wear a face covering or surgical mask that covers the nose and mouth to contain the wearer's respiratory droplets and help protect others and potentially themselves.

NOTE: There are multiple exceptions in the Standard

16VAC25-220-60.A

A. The requirements in this section for employers ~~with hazards or job tasks classified as medium exposure risk~~ **higher-risk workplaces with mixed-vaccination status** employees apply in addition to requirements contained in 16VAC25-220-40, 16VAC25-70, and 16VAC25-80.

16VAC25-220-60.A

Employers shall take the **additional steps** in subsections B, C, and D to mitigate the spread of COVID-19 for employees who are **not fully vaccinated**, employees who are **fully vaccinated but work in a place of employment with substantial or high community transmission**, and otherwise **at-risk employees** in workplaces (which include, but are not limited to, manufacturing, meat and poultry processing, high-volume retail and grocery, transit, seafood processing, correctional facilities, jails, detention centers, and juvenile detention centers) where there is heightened risk due to the following types of factors:

16VAC25-220-60.A

- Working closely together (assembly line)
- Prolonged closeness to coworkers or frequent contact with the public
- Inadequate ventilation
- Presence of respiratory droplets or aerosols
- Ride-share vans or shuttles
- Communal housing

Summary

- Compliance with **current** CDC guidance satisfies the Standard
- Masks required indoors for employees who are **not fully vaccinated** or for all employees in areas of substantial or **high community transmission**
- Employers must include a method to receive **anonymous complaints** of violations.

Additional Resources

- Visit <https://www.doli.virginia.gov/virginia-standard-for-infectious-disease-prevention-of-covid-19/> for more information related to the DOLI Standard
- Visit www.VACORP.org for additional COVID-19 related resources
- Reach out to your VACORP Member Services Representative or Risk Control Consultant

Rest assured, with us, you're covered.



Reach out, we're here for you.

VACORP

Thank You!

www.VACORP.org

1819 Electric Road, Suite C | Roanoke, VA
24018

Phone: (888) 822-6772 | FAX: (877) 212-8599

Risk Management | Coverage | Claims Resolution