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## 16 VAC 25-220, Emergency Temporary Standard Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19

### **Standard Summary for Authorities**

Due to COVID-19, Governor Northam recently announced the adoption of statewide emergency workplace standards proposed by Virginia's Department of Labor and Industry. This summary document is intended to serve as a guide in order to assist you in complying with the new Emergency Temporary Standard.

The standard applies to all employers in the Commonwealth of Virginia, and its requirements vary based upon the hazard classification of the employees. All employers will be required to classify the risk for each of their employee positions as "very high," "high," "medium," or "lower" depending on the level of risk of exposure to the SARS-CoV-2 virus and set forth controls, processes, and training for staff in compliance with the standard. It is possible for a single organization to employ staff with different job hazard classifications.

Under the Standard's language, VACORP authority members will generally have employees that fall into the "lower" and "medium" hazard classifications. Office personnel that are able to work without close contact within 6 feet of others are considered to be "lower" risk. Positions that require contact within 6 feet of others, such as interacting with the public across a counter, are "medium" risk. Plant personnel and field crews would be "medium" risk if they work as a team and expected to interact within 6 feet of others.

### **§20 Dates**

This standard takes effect immediately as of July 27, 2020.

- Training requirements (found in §80) take effect on August 26, 2020.
- Requirements for the Infectious Disease Preparedness and Response (IDPR) Plan and training specifically related to this plan take effect September 25, 2020.

### **§40 Mandatory Requirements for All Employers**

#### **A. Exposure Assessment and Determination System**

- Assess the workplace for hazards and assign a risk classification status for each individual role (very high, high, medium, or lower).
- Create reporting processes for employees experiencing COVID-19 symptoms.
  - Those who report symptoms will be designated as suspected to be infected unless an alternative diagnosis, such as the flu, has been made.



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- Those suspected to be infected must leave work and cannot return until they have been cleared; although, they should be allowed to work remotely while in isolation if possible.
  - Leave policies must be flexible and adhere to the Families First Coronavirus Response Act as well as to public health guidance.
  - Subcontractors must be made aware of safety and reporting rules. They are to be treated just like employees in terms of suspected and known cases of COVID-19.
  - Establish a HIPAA compliant system to receive positive SARS-CoV-2 test reports from employees and contractors.
    - The Virginia Department of Health and anyone who was in the building and may have been exposed to the confirmed positive person within the previous 14 days must be notified within 24 hrs of receiving the positive report.
- B. Return to Work
- Establish a policy to bring employees who tested positive back to work in one of the following ways:
    - Symptom based – At least 10 days have passed since symptoms first appeared, and there have been no respiratory symptoms or fever for at least 3 days (72 hours) without the use of fever reducing medication.
    - Test based – Collect at least 2 negative tests at least 24 hours apart, and verify there have been no respiratory symptoms or fever ~~for at least 3 days (72 hours)~~ without the use of fever reducing medication. Employers cannot require employees to pay for testing.
- C. Ensure Physical Distancing
- Use announcements, signs, and visual cues such as ground markings to encourage physical distancing of at least 6 feet.
  - Decrease worksite density by limiting visitors or promoting telework.
  - Comply with executive and public health orders applicable to occupancy limits.
- D. Access to Common Areas
- Close or control access to common areas such as lunchrooms and break rooms
    - Post the policy at common space entrances highlighting occupancy limit, physical distancing, hand washing, and cleaning/disinfecting requirements.
    - Ensure adequate hand washing/sanitizing facilities are available.
    - Provide routine cleaning of the space at regular intervals or require employees to clean and disinfect the immediate area after using it.
- E. Provide appropriate PPE when multiple employees occupy a single vehicle for work purposes.
- F. Ensure Compliance with Virginia Executive Order or Order of Public Health Emergency.
- G. Provide appropriate PPE when a work area cannot accommodate physical distancing.



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- H. Employees may be exempt from wearing a mask due to a health or safety concerns.
- I. Employees may request religious waivers from masks from the Department of Labor and Industry.
- J. Sanitation and Disinfecting
  - All cleaning agents must comply with EPA and VOSH standards.
  - Provide immediately available cleaning/disinfecting supplies to employees who interact face-to-face with other persons on the job.
  - Clean/disinfect (if possible, after waiting 24 hrs) work area where a known or suspected positive COVID-19 case been prior to allowing others into the area.
  - Clean/disinfect all shared tools and equipment prior to transfer and all common areas at the end of each shift.
  - Ensure adequate access to soap and water to all employees throughout the workday. Employees required to work within 6 feet of others must have hand sanitizer available, and mobile workers must have transportation to toilet and hand washing facilities.
- K. Employers must provide PPE when all other controls are not feasible.

### **§50 Requirements for Hazards or Job Tasks Classified at “Very High” or “High” Exposure Risk**

- A. Engineering Controls
  - Air handling systems must be maintained per manufacturer’s guidelines and comply with ANSI/ASHRAE/ASHE standards.
  - Barriers such as sneeze guards shall be installed when barrier will reduce the spread of SARS-CoV-2.
- B. Administrative and Work Practice Controls
  - Require pre-screening of employees for COVID-19 symptoms.
  - Restrict non-employee access.
  - Provide hand sanitizer (at least 60% ethanol or 70% isopropanol) in health care settings.
  - Provide face coverings to any suspected positive persons until they can leave the site.
  - Where feasible:
    - Implement flexible hours and work sites (staggered shifts, telework).
    - Deliver services remotely.
    - Increase physical distancing to at least 6 feet.
  - Provide training.



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- C. Personal Protective Equipment (PPE)
  - Assess the workplace and job tasks to determine appropriate PPE.
  - Document the hazard assessment with a written certification.
  - Provide “very high” and “high” exposure classified positions with gloves, a gown, face shield/goggles and mask or respirator when working within 6 ft of anyone known or suspected to be infected with SARS-CoV-2.

### **§60 Requirements for Hazards or Job Tasks Classified at “Medium” Exposure Risk**

- A. Engineering Controls
  - Identical to §50 requirements.
- B. Administrative and Work Practice Controls
  - Implement all §50 requirements to the extent feasible.
- C. Personal Protective Equipment (PPE)
  - Similar to §50, but without the need to supply the PPE required for employees working around persons known or suspected to be infected with SARS-CoV-2.

### **§70 Infectious Disease Preparedness and Response (IDPR) Plan**

- A. Employers with any employees with “very high” or “high” exposure classifications or 11 or more “medium” employee classifications must have an Infectious Disease Preparedness and Response (IDPR) Plan.
- B. IDPR Plan training is required for all employees with “very high”, “high,” and “medium” exposure classifications.
- C. Plan must address:
  - The person designated to be responsible for the plan
  - Potential exposure sources at work such as the public, other employees, customers, travel, or working a second job with a “very high,” “high,” or “medium” classification.
  - Individual risk factors or underlying health conditions
  - Engineering Controls, Administrative and Work Practice Controls, and PPE
  - Contingency plan for outbreaks:
    - Dealing with increased absenteeism
    - Allowing for remote work or staggered shifts
    - Operating with a reduced workforce
    - Managing interrupted services
  - Infection prevention measures:
    - Hand washing/sanitizing
    - Cleaning/disinfecting



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- Educating visitors and employees
- Procedure for identifying and isolating known or suspected infected employees
- Interacting with subcontractors, visitors, temporary employees and outside businesses

### **§80 Training**

- A. Training is required for all employees with “very high”, “high,” and “medium” exposure classifications.
- B. Training must include:
- This standard
  - Characteristics and transmission methods of SARS-CoV-2
  - Understanding of COVID-19 symptoms, the timeframes of symptoms, asymptomatic cases, and underlying health conditions
  - Safe and healthy practices such as physical distancing and disinfecting
  - PPE requirements, proper use, and maintenance
  - Anti-discrimination provisions in this standard
  - Infectious Disease Preparedness and Response (IDPR) Plan.
- C. Written certification of training is required.
- D. Records of training must be maintained.
- E. Retraining is required when:
- Changes are made to the workplace or job tasks
  - Changes are made to the IDPR Plan
  - Employee displays a need for retraining
- F. Employees classified as “lower” exposure do not need training, but must be provided with written information. The Department of Labor and Industry is developing an information sheet that will satisfy this requirement.

### **§90 Anti-Discrimination Provision**

Discrimination against an employee for exercising rights under this standard is prohibited. Employees may adhere to this standard as well as raise concerns without fear of discipline. Employees may also refuse to work if they feel unsafe or provide and wear their own PPE if it does not create a greater hazard for themselves or their coworkers.

*VACoRP and its Service Provider do not practice law and do not provide legal advice. The information provided is given in summary form and does not purport to be complete. It is of a general nature and is accurate as of the date presented. This outline is intended to be for reference purposes only and does not replace reviewing the actual legislation and using independent, professional judgment.*