

JacksonLewis

VOSH Emergency Temporary Standard for COVID-19

Important information for today's webinar:

No phone dial-in is needed. All audio will come through your computer speakers or headphones connected to your computer audio.

All attendees are in Listen Only mode for the duration of the presentation. Please submit questions via the Q&A box on the webinar control panel.

Courtney Malveaux

Courtney.Malveaux@jacksonlewis.com
804-212-2862



- Background on new standard
- Requirements for all employers
- “Medium Hazard” employers
- “High Hazard” and “Very High Hazard” employers

Background on Emergency Temporary Standard

Virginia Occupational Safety and Health (“VOSH”)

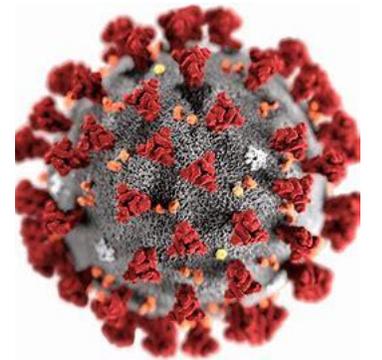
Virginia is a “State Plan” State that governs most of its own workplaces

- VOSH enforces Virginia occupational safety and health law (Title 40.1) for:
 - Most private sector employers
 - All state and local employers
- OSHA enforces the federal Occupational Safety and Health Act for:
 - Federal employers and property
 - Maritime and agricultural industries

VOSH Standard for COVID-19

Virginia Passed a First-In-Nation COVID-19 Standard

- The Virginia Safety and Health Codes Board approves OSHA regulations
- It approved a first-in-the-nation Emergency Standard for COVID-19 on July 15, 2020
- Arose in response to Governor's Executive Orders
- Effective date to be determined (likely by end of July 2020)
- Six-month duration, with potential permanent standard to follow
- Will “sunset” upon expiration of Governor's State of Emergency



Requirements for All Employers Under VOSH Jurisdiction

What Is In the Virginia Standard?

General requirements for all employers

- Hazard assessment for all job tasks (“Very High,” “High,” “Medium” and “Low”)
- Policies/procedures for employees to report COVID symptoms
- Prohibit known/suspected cases at worksites
- “Flexible” sick leave policies
- System to receive reports of positive tests (within past 14 days) by:
 - Employees (including temps and contract employees)
 - Subcontractors
- Mandatory handwashing stations *and* hand sanitizer “where feasible”
- Employers must assess risk levels of employees and suppliers before entry
- Building and facility owners must notify employer tenants of COVID-19 cases

What Is In the Virginia Standard?

General requirements for all employers (cont'd)

- Employers must notify:
 - VA Dept. of Health of COVID-19 positive tests; and
 - VA Dept. of Labor and Industry (DOLI) of “hot spots”: 3 COVID-19 positive tests within a two-week period
- Hazard assessments for all job tasks
- Infectious disease preparedness and response plans within 60 days

What Is In the Virginia Standard?

General requirements for all employers (cont'd)

- “Good faith” if actual compliance with mandatory/nonmandatory provisions of CDC guidance (if equivalent/greater protection)
- Nondiscrimination for:
 - Raising/reporting concerns
 - Voluntary PPE use
 - Reasonable work refusals

What Is In the Virginia Standard?

These requirements apply to all “Low Hazard” employers with:

- No required contact within 6’ of known/suspected cases
- Minimal contact with others (e.g., office setting)
- Minimal contact through engineering controls, such as:
 - Floor-to-ceiling barriers
 - Telecommuting
 - Staggered shifts
 - Remote delivery
 - Mandatory social distancing
 - Face coverings

Requirements for “Medium Hazard” Employers

Requirements for “Medium” Hazard Employers

What is a “Medium Hazard” Employer?

- More than minimal contact within 6’ of others
- May include operations/services in:
 - Poultry/seafood/meat processing
 - Agriculture
 - Manual labor
 - Commercial transportation
 - School campuses
 - Daycare/after school care
 - Restaurants/bars
 - Grocery/convenience stores

Requirements for “Medium” Hazard Employers

What is a “Medium Hazard” Employer? (cont’d)

- May include operations/services in:
 - Food banks
 - Drug stores/pharmacies
 - Manufacturing settings
 - Construction (indoor and outdoor)
 - Correctional facilities
 - Work performed in customer premises (homes or businesses)
 - Retail stores
 - Call centers

Requirements for “Medium Hazard” Employers

What is a “Medium Hazard” Employer? (cont’d)

- May include operations/services in:
 - Package processing settings
 - Veterinary settings
 - Personal care, personal grooming, salons and spas
 - Sports venues
 - Homeless shelters
 - Fitness, gym and exercise facilities
 - Airports
 - Train/bus stations
 - Healthcare settings that does not involve exposure to known/suspected cases

Requirements for “Medium Hazard” Employers?

“Medium” Hazard Employers Must:

- When feasible:
 - Telework
 - Staggered shifts
 - Eliminate personal meetings, travel
 - Physical barriers
 - Implement telework and staggered shifts
 - Social distancing
 - Deliver services/products remotely or by curbside pickup or delivery
 - Reconfigure spaces where employees congregate

Requirements for “Medium Hazard” Employers

Requirements for “Medium Hazard” employers

- Infectious Disease Preparedness and Response Plan (exception for ten or fewer employees)
 - Designated person for implementation
 - Employee involvement
 - Hazard assessment by job tasks and potential exposure sources
 - Employees with other jobs
 - Employees’ individual risk factors
 - Outbreak contingency plans to cover:
 - Absenteeism
 - Enhanced workplace control measures
 - Crosstraining/continued operation plans
 - Interrupted supply chains/delayed deliveries

Requirements for “Medium Hazard” Employers

Requirements for “Medium Hazard” employers

- Prescreening/surveying before each work shift
- Provide face coverings to visitors with suspected cases and employees who can't social distance
- Infection prevention
 - Handwashing
 - Cleaning/disinfecting
 - Managing/educating visitors

Requirements for “Medium Hazard” Employers

Requirements for “Medium Hazard” employers

- Identification/isolation of known/suspected cases
- Plan to address subcontractors, temp/contract employee providers, other visitors
- Antiretaliation protections for employees who raise concerns
- Assess, require and communicate PPE use beyond General Industry

Requirements for “Medium Hazard” Employers

Requirements for “Medium Hazard” employers

- Written certification to verify workplace hazard assessment that:
 - Identifies evaluated workplace
 - Certifies evaluation completion with date(s)
- Ensure air handling systems that:
 - Are maintained according to manufacturers’ instructions
 - Comply with minimum American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards

Requirements for “Medium Hazard” Employers

Requirements for “Medium Hazard” employers

- Employee COVID training within 30 days on:
 - New VOSH standard
 - CDC guidelines (mandatory and nonmandatory)
 - Signs/symptoms/methods of transmission
 - Risk factors for underlying health conditions
 - Asymptomatic/Presymptomatic spread
 - Safe and healthy work practices
 - PPE
 - Antidiscrimination
 - Infectious Disease Preparedness and Response Plan
 - Retraining

Requirements for “High Hazard” and “Very High Hazard” Employers

Additional Requirements for “High Hazard” Employers

Requirements for “High Hazard” employers

- Airborne Infection Isolation Rooms for patients
- Autopsy suites for postmortem activities
- CDC Biosafety Level 3 requirements for handling infected specimens
- Limitation of non-employee access
- Signage to report symptoms
- Psychological/behavioral support
- Respiratory protection program



JacksonLewis

Courtney M. Malveaux, Esq.

804.212-2862

Courtney.Malveaux@jacksonlewis.COM

Represents Employers In:

- OSHA Citations
- Regulatory and Employment Matters
- Government Affairs

Regulatory Background:

- Virginia Labor Commissioner
- VA Safety and Health Codes Board
- President, National Association of Government Labor Officials