



**VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY (DOLI)
VIRGINIA OCCUPATIONAL SAFETY AND HEALTH (VOSH)
PROGRAM
VOSH Emergency Temporary Standard for the COVID-19 Pandemic
Guidance for Employers and Employees**



VACORP

NINE STEPS TO COMPLIANCE

VACORP's Risk Control Services is ready to help you comply with the Virginia Department of Labor and Industry's new emergency temporary standard established to protect employees from COVID-19. Your Risk Control consultant is available via conference call, Zoom meetings, or email to assist with questions about the Nine Steps and compliance therewith. This document covers the required steps to meet compliance with the new VOSH standard. Check out our website for the new training webinar designed to help you meet the Step Nine requirements.

In the face of the devastating impact of the COVID-19 pandemic, the Virginia Safety and Health Codes Board has adopted an **Emergency Temporary Standard, Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19 16VAC25-220**, to protect employees and employers from the spread of COVID-19. This new standard will keep Virginians safe and healthy at work, customers confident in the safety of Virginia's business establishments, and employers open for business.

Key Information

Up-to-date information on the new Emergency Temporary Standard (ETS) can be found at www.doli.virginia.gov. Outreach, education, and training materials are available from the state at that site.

The ETS is currently in effect, as it was officially published on July 27, 2020. The ETS applies to all private, state, and local government employers and employees covered by VOSH jurisdiction. The ETS will expire six months from the effective date, but the Safety and Health Codes Board will be considering the adoption of a permanent replacement standard during that same time period.

The VOSH Program will be conducting compliance inspections under the ETS. To better understand and voluntarily comply with the ETS, contact DOLI to request **free, confidential** consultation and training services.

The direct DOLI consultation services link, located at <https://www.doli.virginia.gov/vosh-programs/consultation/>, provides access to the state's free services via the site and their request form.

Nine Steps to Achieve Compliance

STEP 1: Assess your workplace for hazards and job tasks that could potentially expose employees to the SARS-CoV-2 virus or COVID-19 disease. Employers must classify each job task according to the hazards employees are potentially exposed to and ensure compliance with the applicable sections of the ETS for "very high," "high," "medium," or "lower" risk levels of exposure. Tasks that are similar in nature and expose employees to the same hazard may be grouped for classification purposes.

❖ **LOWER RISK:** Lower risk jobs are those that do not require contact inside six feet with persons known to be, suspected of being, or that may be infected with the SARS-CoV-2 virus. These individuals have minimal occupational contact with other employees or the general public, or could achieve minimal occupational contact through the implementation of work practice controls.

❖ **MEDIUM RISK:** Medium risk jobs are those that require more than minimal occupational contact, contact inside six feet with other employees or other persons that may be, but are not known or suspected to be, infected with the SARS-CoV-2 virus. These may include, but are not limited to, waiters, grocery store workers, agricultural workers, construction workers, domestic service workers, hairdressers, fitness instructors, workers in poultry and meat processing facilities, manufacturing workers, and healthcare workers in settings without known or suspected sources of SARS-CoV-2.

❖ **HIGH RISK:** High risk jobs are those with a high potential for employee exposure inside six feet to known or suspected sources of SARS-CoV-2 virus. These include hospital workers, first responders, medical transport providers, mortuary services workers, medical and dental staff, non-medical support staff, long term care facility staff, home healthcare workers, etc.

❖ **VERY HIGH RISK:** Very high risk jobs are those with a high potential for employee exposure inside six feet to known or suspected sources of SARS-CoV-2 virus during the performance of specific medical (e.g., aerosol generating procedures), postmortem, or laboratory procedures with specimens from a known or suspected source of the SARS-CoV-2 virus.

STEP 2: Establish and implement a system for employee self-assessment and screening for COVID-19 signs and symptoms (see specific requirements by risk classification).

STEP 3: Provide flexible sick leave policies, telework, staggered shifts, and other administrative/work practice controls when feasible to reduce or eliminate contact with others inside six feet. 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).

STEP 4: Establish and implement procedures that will prevent sick employees and other persons from infecting healthy employees:

1. Implementing engineering or work practice controls that eliminate or significantly reduce employee exposure to the SARS-CoV-2 virus.
2. Ensuring that employees observe physical distancing while on the job and during paid breaks.
3. Requiring employees to comply with the safety and health practices outlined in the ETS related to protective gear, sanitation, disinfection, and hand-washing.
4. Providing personal protective equipment to employees and ensuring its proper use when other work place controls such as engineering controls, work practice changes, and social distancing do not provide sufficient protection.

STEP 5: 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.

STEP 6: Establish and implement a system for notifying employees, building owners, 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.

STEP 7: Ensure that you are in compliance with the anti-discrimination provisions in the new ETS. This includes refraining from discharging or in any way discriminating against an employee because they have raised a reasonable concern about infection control regarding the SARS-CoV-2 virus or COVID-19 disease in the workplace with you, other employees, a government agency, or to the public through any form of media.

STEP 8: If you are 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, you 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.

STEP 9: Employers with medium, high, and very high risk workplaces must provide COVID-19 training to employees within 30 days of the effective date. Lower risk places of employment must provide employees with basic written or oral information on COVID-19 hazards and measures to minimize exposure. An acceptable workplace poster will be made available free of charge by VOSH at www.doli.virginia.gov.

*In addition to the actual ETS and the further outreach, education, and training materials available at www.doli.virginia.gov, VACORP is happy to work with you on any questions you may have with this process.

VACoRP and its Service Provider do not practice law and do not provide legal advice. The information provided is accurate as of the date presented, as the language is from the legislation available at that time. This document is intended to be for reference purposes only and does not replace reviewing the actual legislation and using independent, professional judgment.