

Virginia Occupational Safety and Health (VOSH)

December 18, 2020

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Director of Legal Support, ORA, OPPPI, and OWP



Virginia Department of Labor and Industry

VOSH EMERGENCY TEMPORARY STANDRD FOR COVID-19, 16VAC25-220

SUMMARY VOSH COVID-19 RESPONSE								
Dates	10/23/20	10/30/20	11/6/20	11/13/20	11/20/20	11/27/20	12/4/20	Total
Phone Calls								
Total Phone Calls	193	201	119	193	195	110	143	9529
UPAs Complaints OIS Statewide	25	49	25	24	35	24	27	1407 *
# Inspections <i>Complaints, Referrals, Hospitalizations & Fatalities</i>	2	7	3	1	5	3	2	94 **
# Hospitalizations	0	1	1	0	2	0	1	60 ***
<i>Inspection</i>	0	0	0	0	0	0	0	20
<i>RRI</i>	0	1	1	0	2	0	1	30
Fatalities/Workplace deaths	1	1	1	0	0	1	0	29
# of Emails forwarded to Regional/Field Offices from MF <i>COVID-19 positive Cases Reports (ETS) Complaints (does not include reports submitted by phone in the Regional Offices).</i>	10	10	8	8	20	20	10	533
# REDCAP Notifications (Launched 09/28/20)	554	618	692	913	1219	980	1685	7534
# REDCAP Notifications (3 or more cases reported)	140	142	149	193	245	228	365	1710 ****
<i>* Time Range: 01/01/2020 to 12/04/2020 UPA numbers may change as Regions update the system.</i>								
<i>**Inspections opened (Total: 94 - Draft + Final)</i>								
<i>***There are Employers submitting multiple notifications. Some of the hospitalizations reported to VOSH later resulted in fatalities.</i>								
<i>**** <u>365 of the 1685 notifications were reports of more than 3 cases.</u></i>								
Top 3 Health Districts Reporting Cases Fairfax County Alleghany/Roanoke Richmond City								

COVID-19 ETS: Impact on Employers



- At its core, the COVID-19 is a **risk management** system
- Designed to provide **flexibility** for employers, **basic protections** for employees, and **enhanced protections** for employees at greater risk of exposure
- Requires **classification of job tasks** according to the hazards employees are potentially exposed (Very High, High, Medium, and Lower)
- Provides basic protections for employees and employers (system for self-assessment and screening; don't allow sick employees to infect healthy employees; use the **hierarchy of controls** to implement **mitigation efforts** to prevent disease spread; notify employees and other employers of potential exposures; establish a **return to work** policy)

COVID-19 ETS: Impact on Employers



- Specific additional requirements for Very High, High, and Medium risk job tasks centered around mitigation of hazards **but also incentivizes employers to make changes that will enable employees in certain situations to be classified to a reduced level of risk, and thereby achieve substantial savings on compliance costs**
- **Infectious Disease Preparedness and Response Plan** requirements for Very High, High, and Medium risk employee exposure (with 11 or more employees)
- **Training** requirements for Very High, High, and Medium risk employee exposure
- Information requirements for Lower risk employee exposure
- Anti-discrimination protections

Outreach, Education and Training

<https://www.doli.virginia.gov/covid-19-outreach-education-and-training/>

Outreach, Education And Training For The COVID-19 Emergency Temporary Standard, 16VAC25-220

The Department of Labor and Industry's Virginia Occupational Safety and Health (VOSH) Program and the Virginia Safety and Health Codes Board have adopted the COVID-19 Emergency Temporary Standard, 16VAC25-220. [SHCB Emergency Meeting Archive](#)

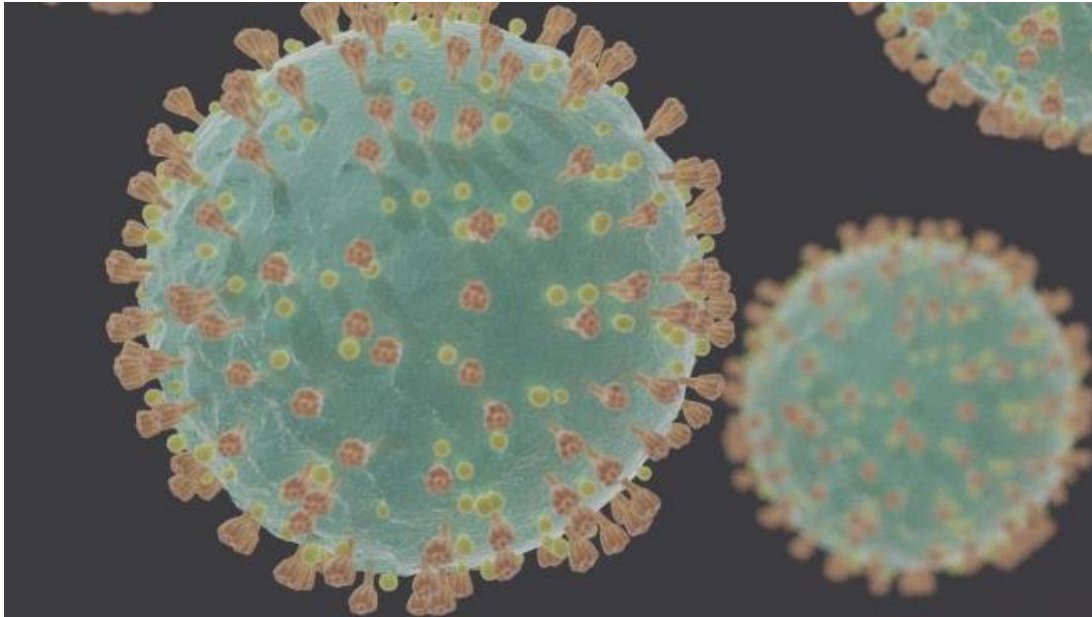
Reporting COVID-19 positive cases: The [16 VAC 25-220-40.B.8.e](#) of the Emergency Temporary Standard, Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19 provides that "The employer shall notify the Virginia Department of Labor and Industry within 24 hours of the discovery of three (3) or more employees present at the place of employment within a 14-day period testing positive for SARS-CoV-2 virus during that 14-day time period." Employers may use contact information listed on our [Report a Positive Coronavirus Case, Workplace Fatality, or Severe Injury](#) page.

Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19, 16VAC25-220

Publication Date	July 27, 2020					
16VAC25-220 Text of Regulation	English	Spanish				
Document incorporated by reference into 16VAC25-220 Environmental Protection Agency (EPA) List N for use against SARS-CoV-2	English					
Document incorporated by reference into 16VAC25-220 Biosafety in Microbiological and Biomedical Laboratories" (Dec. 2009)	English					
Effective Date	July 27, 2020					
News Release	English					
Explanation of Outreach	(Coming soon)					
Training Materials	The following supporting documentation was designed to assist in the understanding and implementation of this emergency temporary standard.					
Training Certification Form	English					
Nine Steps to Achieve COVID-19 ETS Compliance	English	Spanish	Portuguese	Korean	French	Japanese
Frequently Asked Questions	English					
Specifics of the ETS Training Presentation	English	Spanish	Portuguese	Korean	French	Japanese
Overview Presentation	English					
Medium Risk Level Training Presentation	English					
Hazard Assessment	English	Spanish	Portuguese	Korean	French	Japanese
Infectious Disease Plan Template	English	Spanish	Portuguese	Korean	French	Japanese
Infographic	English					
Lower Risk Training	English					
Toolbox Talks	English	Spanish	Portuguese	Korean	French	Japanese

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Virginia COVID-19 ETS Enforcement

COVID-19 ETS: VOSH Enforcement

- VOSH Inspection Priority Criteria:

<u>Priority</u>	<u>Category</u>
First	Imminent Danger as defined in the VOSH <u>Administrative Regulation Manual</u> (ARM).
Second	Fatality Inspections (regardless of whether our inspection is in response to specific evidence of hazardous conditions or not).
Third	Accident / First Report of Accident Inspections.
Fourth	Complaints / Referrals.
Fifth	Follow-up / Monitoring.
Sixth	Programmed Inspections, i.e., General Schedule, Construction Schedule, National & Local Emphasis Programs AND unprogrammed inspections in response to alleged hazardous working conditions that would normally be classified as Other-Than-Serious.



COVID-19 ETS: VOSH Enforcement

- § 40.1-51.2. Rights and duties of employees.

.... [Employee Complaints]

(b) Employees or their representatives may bring to the attention of their employer any hazardous conditions that exist or bring the matter to the attention of the Commissioner or his authorized representative, without first bringing the matter to the attention of their employer. **Upon receipt of any complaint of hazardous conditions, the Commissioner or his authorized representative shall cause an inspection to be made as soon as practicable. (Emphasis added).**

COVID-19 ETS: VOSH Enforcement



- Enforcement Options: Investigations and Inspections
- COVID-19 “Investigations”
 - Informal investigations (phone/fax/email/letter) are often conducted in response to **employee complaints** (with the permission of the employee); and **referrals** from the Virginia Department of Health
 - The employer is provided the opportunity to provide a response to the complaint/referral items with a short turnaround time
 - If no response or an **unsatisfactory** response is received, an inspection will be conducted
 - If the response is considered **satisfactory**, it is provided to the Complainant for review and comment. If the Complainant provides reasonable information challenging the validity of the response provided, an inspection will be conducted.

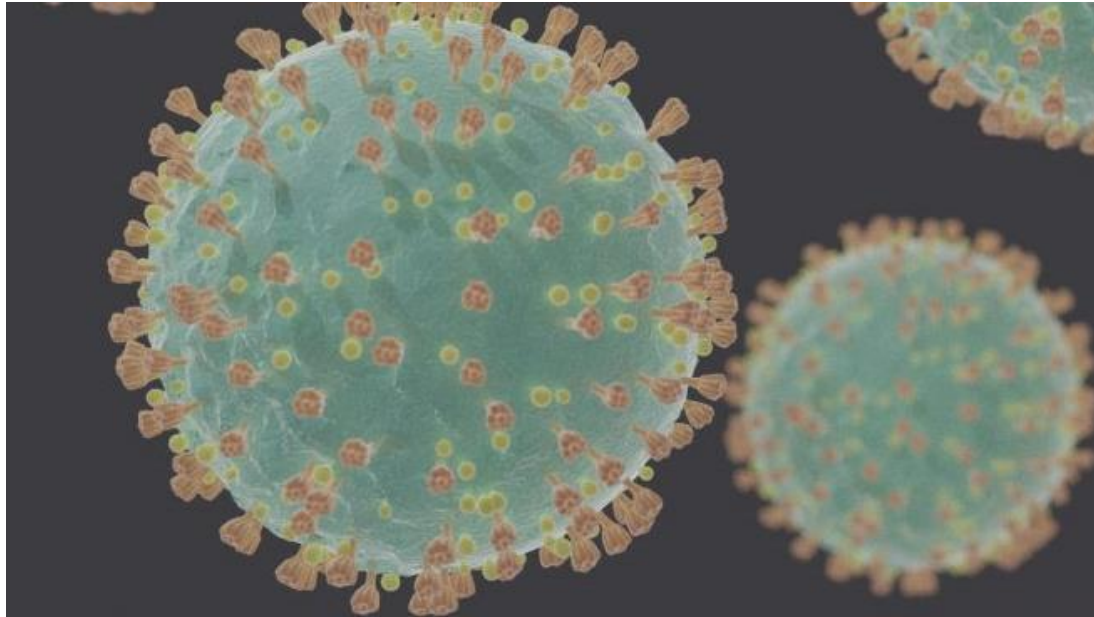


COVID-19 ETS: VOSH Enforcement

- COVID-19 “Inspections”
 - Can result in violations and substantial penalties
 - Inspections are opened for COVID-19 related employee deaths
 - Inspections may be opened for COVID-19 related hospitalizations or handled through an investigation
 - Inspection files with proposed violations will be reviewed by Headquarters and receive a legal review before a decision to issue or not issue is made

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Virginia COVID-19
ETS and
Revised Proposed
Permanent
Standard

COVID-19: Revised Proposed Permanent Standard

- The Emergency Temporary Standard for COVID-19 became effective on July 27, 2020 and will remain in place for 6 months until January 26, 2021.
- The Virginia Safety and Health Codes Board will be considering adoption of a Proposed Permanent Standard during the 6 month period.
- The Board held a 60 day written comment period for the Proposed Standard, with the comment period running from August 27, 2020 to September 25, 2020:
- <https://townhall.virginia.gov/L/Comments.cfm?generalnoticeid=1137>
- The Board held a public hearing on September 30, 2020:
- <https://www.doli.virginia.gov/wp-content/uploads/2020/10/SHCB-Public-Hearing-on-Permanent-Standard-9.30.2020.mp4>

COVID-19: Revised Proposed Permanent Standard

- A revised draft of the proposed standard (attached) reflecting input from the Administration, the Virginia Department of Health (VDH), and comments from the 60 day comment period and public hearing of September 30, 2020 has been posted online for a 30 day comment period prior to the Board meeting to consider its adoption as a final standard. Here is a link to the standard on DOLI's website:
- <https://www.doli.virginia.gov/wp-content/uploads/2020/12/Proposed-Standard-for-COVID-19-12.10.2020.pdf>
- Here is link to the general notice for the 30 day comment period from December 10, 2020 to January 9, 2021:
- <https://townhall.virginia.gov/L/ViewNotice.cfm?GNid=1177>
- A public hearing on the revised proposed standard is scheduled for January 5, 2021:
- <https://www.doli.virginia.gov/wp-content/uploads/2020/10/SHCB-Public-Hearing-on-Permanent-Standard-9.30.2020.mp4>

COVID-19: Revised Proposed Permanent Standard

- A Board meeting to consider adoption of the Revised Proposed Standard as a Final Standard of the Board is scheduled for January 12, 2021 (with possible continuation dates of January 13 and 19, 2021. Here is a link to the Board meeting notice
- <https://townhall.virginia.gov/L/Meetings.cfm?BoardID=92&time=Future>
- The Department recommends you also sign up for notices from the Virginia Regulatory Townhall:
- <https://townhall.virginia.gov/L/Register.cfm>



COVID-19: Cleaning and Disinfecting

- Executive Order 72
- [https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-72-and-Order-of-Public-Health-Emergency-Nine-Common-Sense-Surge-Restrictions-Certain-Temporary-Restrictions-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-72-and-Order-of-Public-Health-Emergency-Nine-Common-Sense-Surge-Restrictions-Certain-Temporary-Restrictions-Due-to-Novel-Coronavirus-(COVID-19).pdf)
- Routine cleaning and disinfection of frequently-contacted surfaces is still required in EO 72 for businesses in general, with specific requirements by industry (e.g., “Routine cleaning and disinfection of frequently-contacted surfaces must be conducted every 60 minutes during operation. Tabletops must be cleaned in between patrons.” Restaurants, Dining Establishments, Food Courts, Breweries, Microbreweries, Distilleries, Wineries, and Tasting Rooms).
- CDC Guidance for Cleaning and Disinfecting:
- https://www.cdc.gov/coronavirus/2019-ncov/community/pdf/REopening_America_Guidance.pdf

COVID-19: Cleaning and Disinfecting

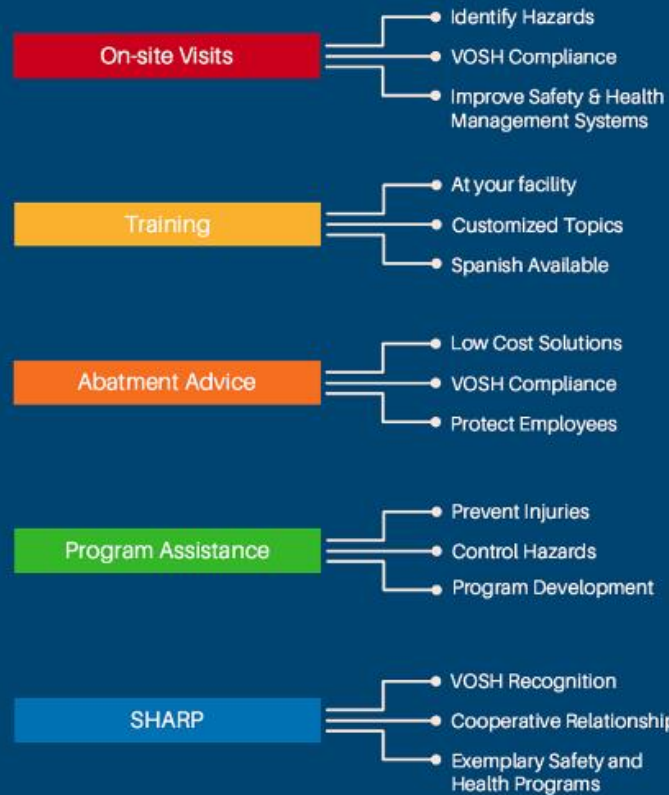
- VOSH Emergency Temporary Standard, 16VAC25-220
- <https://www.doli.virginia.gov/wp-content/uploads/2020/07/RIS-filed-RTD-Final-ETS-7.24.2020.pdf>
- Minimum Sanitation and Disinfecting Requirements for all employers are found in 16VAC25-220-40.K.

DOLI ENCOURAGES SMALL BUSINESSES TO TAKE ADVANTAGE OF VOSH'S FREE, CONFIDENTIAL CONSULTATION AND TRAINING PROGRAM



VOSH Consultation Services

To help small employers better understand and voluntarily comply with the Virginia Occupational Safety and Health (VOSH) standards, the Department of Labor and Industry provides **FREE** Consultation services. Contact us today to reduce workplace injuries, ensure VOSH Compliance, and save money.



<https://www.doli.virginia.gov/vosh-programs/consultation/>

VOSH CONSULTATION SERVICES PROGRAM: Who Qualifies

- Focuses on High Hazard Industries, but All Employers are Eligible to Make a Request for Services
- No more than 250 employees at one site
- No more than 500 employees at all sites
- Offered at the request of the client



VOSH CONSULTATION SERVICES PROGRAM: The Process

- Process
 - Opening Conference
 - Walk around
 - Closing Conference
 - Report
- Obligation
 - Abate all hazards found
 - Allow employee participation



VOSH CONSULTATION SERVICES PROGRAM: Benefits



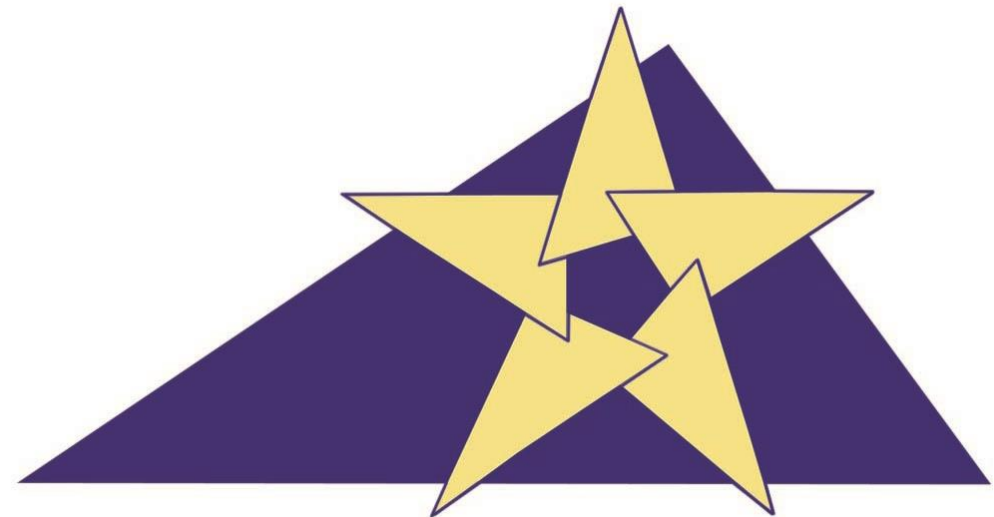
- No relationship to enforcement
- Exempt from Compliance Inspections during the consultation process
- Proactive way to improve employee Safety and Health

CONTACT US

www.doli.virginia.gov



- Central Region
 - 804-371-3104
- NoVA Region
 - 703-392-0900
- Southwest Region
 - 540-562-3580
- Tidewater Region
 - 757-455-0891
- Consultation Division
 - 804-786-7776
- Lynchburg Field Office
 - 434-385-0806
- Abingdon Field Office
 - 276-676-5465
- Verona Field Office
 - 540-248-9280



DEPARTMENT OF LABOR AND INDUSTRY

Questions?

www.doli.Virginia.gov