

Briefing on New DOLI Workplace Standards

August 14, 2020



Agenda

Time	Topic/Speaker
9:30	Welcome and Introduction (Kathy Glazer, VECF)
9:35	Comments (Megan Healy, Governor's Chief Workforce Advisor)
9:40	Overview of DOLI Workplace Safety Regulations (Courtney Malveaux, Jackson Lewis P.C.)
10:15	Comments (Jenna Conway, Chief School Readiness Officer)
10:25	Q&A
10:55	Conclusion Remarks (Kathy Glazer)
11:00	Adjourn

Megan Healy

Governor's Chief Workforce Advisor



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VOSH Emergency Temporary Standard for COVID-19

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

Occupational Safety and Health Administration (OSHA)

OSHA enforces the Occupational Safety and Health Act generally

- OSHA enforces the federal Occupational Safety and Health Act (the “OSH Act”), 29 USC § 654, which incorporates standards such as
 - 29 CFR § 1910 (General Industry Standards)
 - 29 CFR § 1926 (Construction Standards)
- OSHA also enforces the General Duty Clause:

“Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.”

29 USC § 654(5)(a)(1).

Virginia Occupational Safety and Health (“VOSH”)

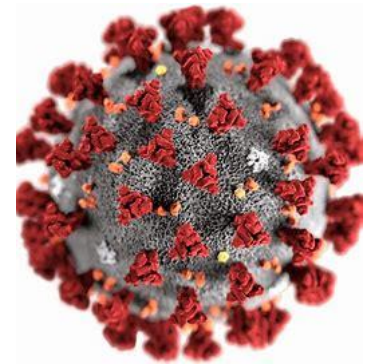
Virginia is a “State Plan” State that governs most of its own workplaces

- 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.

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 July 27, 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

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
- 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

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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

Jenna Conway

Chief School Readiness Officer



Questions?

