



Virginia Passes Final COVID-19 Workplace Safety Standard

On January 27, 2021, Virginia implemented a final and permanent standard to protect workers during the COVID-19 pandemic. The standard, [16 VAC25-220](#), replaces an [emergency temporary standard](#) issued by the state in July 2020. These worker protections are the result of advocacy by various workers' rights groups, including farmworker serving organizations. They are an important step to ensuring that the essential workers keeping us all safe, healthy, and fed are themselves protected during the global health crisis.

Specifically, the regulations require that all employers, regardless of the type of work their employees perform each day, take certain steps to minimize the spread of COVID-19, including assessing their workplace for risk; developing and implementing policies and procedures through which their employees can report symptoms; prohibiting workers who may have been infected with COVID-19 from reporting to in-person work; implementing physical distancing requirements; guaranteeing access to soap and water on the job site; and taking all feasible precautions when employees must share transportation vehicles. Employers are also required to report the existence of any positive COVID-19 cases both to employees who may have been exposed and to local health authorities.

Additional requirements vary based on the exposure risk employees are likely to face on the job. For example, tasks such as intubating a patient or performing an autopsy are labeled "very high" risk, while other health care work is designated "high" risk. Agricultural jobs, as well as poultry, meat, and seafood processing jobs, are a "medium" risk. As such, to the extent feasible, agricultural employers must implement policies for ensuring proper ventilation and air filtration within workspaces; install physical barriers to mitigate the virus' transmission; prescreen or survey workers before they start each shift; provide face coverings and require employees to use them when they are unable to physically distance from others; and increase physical distancing between employees. Where possible, employers must also implement flexible work hours, staggered shifts, and contactless services.

Although the final permanent standard maintains many of the same components as the emergency temporary standard issued during the first few months of the COVID-19 pandemic, it also reflects updated knowledge about the virus and how it spreads. For example, it specifies how face coverings should be worn to ensure effectiveness and details what steps must be taken to ensure air ventilation systems are functioning properly.

Importantly, this standard imposes requirements on subcontractors and protects all workers, including those with temporary jobs and those who are employed through a joint employer relationship. As a standard issued by the Virginia Safety and Health Codes Board, these requirements will be [enforced by Virginia's Department of Labor and Industry](#). Employers who fail to comply will be issued citations and ordered to pay [mandatory fines for any serious violations](#). Any employees who believe that their employers have violated the requirements may [file a complaint](#) and request an inspection of the worksite. Moreover, employers are prohibited from retaliating against employees who exercise their rights under these standards, choose to wear their own personal protective equipment, or raise reasonable concerns about the conditions of their workplace. But as with any labor standard, there are serious obstacles to employer compliance, including the political will of the government to take action to enforce the law and the ability of vulnerable workers, including undocumented workers and guestworkers, to challenge unlawful and unsafe conduct.

This regulation is in immediate effect as of January 27, 2021, although employers have until March 26, 2021 to comply with requirements mandating that they create written infectious disease preparedness and response plans and that they provide training on the hazards and characteristics of COVID-19 to employees. It will remain in effect until the Safety and Health Codes Board determines that there is no continued need for the standard, which may only happen after the expiration of the Governor's COVID-19 State of Emergency and the Commissioner of Health's COVID-19 Declaration of Public Emergency.

Virginia has taken laudable action to ensure that the workers serving our communities are safe and protected. Other states should follow suit.

www.farmworkerjustice.org

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