

General Observations

- Clearly and consistently refer to airborne and asymptomatic transmission
- Clearly and consistently refer to respirators and masks
- Add a section on employee and employee representative participation

Specific Suggestions

§10 G. CDC Guidelines

I suggest removing this section. The regulation/standard should not consider following the CDC guidelines to be in compliance with the regulation/standard. The CDC publishes guidance which employer can choose to follow, but they are not requirements. The CDC guidelines have been changed and unfortunately do not always follow the current science.

§40.A.3. Serologic testing

Section 40.A.3 of the draft standard requires that all employers develop and implement policies and procedures for employees to report positive results from antibody testing. This provision fails to recognize the severe limitations of serologic tests and conflicts with CDC guidelines that the results of serologic tests should not be used for individual determinations due to the lack of sensitivity and specificity of many of these tests. <https://www.cdc.gov/coronavirus/2019-ncov/lab/resources/antibody-tests-guidelines.html>. The final standard should eliminate the requirement for employers to develop reporting policies and procedures for these tests. Reporting of the results of these tests should not be required given their lack of reliability and utility, and the great potential for misuse. To be consistent with current CDC guidelines, the introduction to section 40.A.3 should be amended to read: “ If an employer is notified of the results of an anti-SARS-CoV-2 antibody test for an employee, the employer shall not utilize the results of that test to make decisions about returning to work or other work-related determinations for that individual employee.” Subparagraphs a, b, and d should be retained. Subparagraph c should be deleted, since these are general recommendations that apply to all who are working, whether they test positive by serologic testing or not. I also recommend moving amended Section 40.A.3 to the end of Section 40.A. after section 40.A.7.

§40.A.7. Employer Reporting of COVID-19 Positive Cases

In order to facilitate prompt follow-up and contact tracing for positive cases, the employer reporting requirements under Section 40.A.7 need to be expanded to include prompt reporting of individual cases to the Virginia Department of Health within 24 hours of discovery of the case. In addition, in order to identify and investigate outbreaks that may be related to workplace exposures, the standard should require employer reporting to the Virginia Department of Labor and Industry of all outbreaks of 3 or more employees present at the place of employment within a 14 day period testing positive for COVID-19 during that 14 day time period whether the cases are determined to be work-related or not. Positive cases among workers pose a potential exposure risk to other workers in the workplace whether or not the cases are work-related. Notification of positive cases to the Health Department and outbreaks to the Department of Labor and Industry is critical in order to prevent further exposures and infections at the workplace.

Suggested amendment language:

In section 40.A.7 insert the following new subparagraphs d and e:

“d. The Virginia Department of Health within 24 hours of the discovery of a positive case.”

“e. The Virginia Department of Labor and Industry within 24 hours of the discovery of 3 or more employees present at the place of employment within a 14-day period testing positive for COVID-19 during that 14-day time period.”

§70. Response Plan: Should apply to all risk categories

§80. Training: Should apply to all risk categories with training tailored to the exposure/risk level