

Virginia Department of Labor and Industry

Temporary Policy Revisions to VOSH's Voluntary Protection Programs (VPP) During the COVID-19 Pandemic 10/7/2020

Background

The application, review, and recognition processes for inclusion in the VOSH VPP STAR program include a rigorous onsite evaluation by a team of VOSH and volunteer safety and health experts and requires periodic reevaluation of participants continued participation after initial acceptance. Due to the COVID-19 pandemic, adjustments to the administration of this program are required.

To allow for the continued operation of VPP during this time, VOSH is temporarily modifying some of the programs' policies and procedures, as described below. These temporary modifications are intended to ensure the consistent functioning of VPP in Virginia. They will allow VPP to maintain normal functions to the greatest extent possible, including recognizing the VPP status of applicants and participants and processing evaluation reports.

These policy modifications will be limited to the duration of the current public health crisis. The Director of Cooperative Programs (Director) will continue to monitor the operating status of VPP and provide updated guidance as necessary.

I. Onsite Evaluation Frequencies for Recertifications

A. Existing Policy

The VPP Policies and Procedures Manual Chapter 5.I.A.3 details the required minimum timeframes within which to conduct onsite recertification evaluations for site-based participants.

Chapter 2.IV.E.2 addresses instances where extension of scheduling of a recertification onsite evaluation may be necessary.

B. Modified Policy for Onsite Evaluations for Recertifications

When it is determined that VOSH has the ability to conduct recertification "normal" onsite evaluations may continue to do so, as long as the employer agrees and any existing travel and congregation restrictions are followed. However, where such evaluations are unable to occur due to the pandemic an extension of 12 months (one calendar year) may be added to recertification frequencies for site-based participants, if necessary. The following table¹ outlines the addition of 12 months.

Modified Timeframes for Periodic Reevaluation of STAR Participants		
Way to Participate	First Recertification Evaluation	Second and Subsequent Recertifications
STAR Site-Based	42 to 54 months after initial approval	48 to 72 months from the onsite closing conference date

C. Extension Notification

When any of the COVID-19-related extensions will be applied, the VPP Manager will notify the Director via email of the sites where the extension is used.

D. Exceptions

If the Director determines that additional extensions (more than the extension times listed above) are necessary, they will notify the Assistant Commissioner with justification. It is expected that these instances will be rare.

II. Use of Virtual Technology

The use of virtual technologies and remote processes in VPP STAR evaluations has been discussed as a potential element of VOSH’s continuity of operations during the COVID-19 pandemic. Telephone and video-based evaluation tools are utilized as components of VOSH’s enforcement programs but have not been integrated in VPP STAR procedures.

The process of evaluating employers’ establishments for participation in VPP STAR is based on collection of information and relies heavily on VOSH establishing a rapport and trust-based working relationship with the employer. Onsite evaluation of a VPP participant site’s operations is contingent upon visual walk-throughs of the site’s facilities, reviews of safety and health management programs, systems, documents, data, employee interviews and face-to-face interactions. See Chapter 5 of the VPP Policies and Procedures Manual for current policies for conducting onsite evaluations.

Developing an effective working relationship with a VPP STAR participant is difficult without the face-to-face components of the VPP evaluation process. The COVID-19 pandemic has presented challenges in performing onsite evaluations. Many employers are not allowing outside visitors into their facilities or reduced activity at their site part of the State’s guidance during the pandemic response.

In general, VPP Manager has the discretion to utilize resources to the best of their abilities, ensuring the conduct of the VPP within Virginia is effective. The use of virtual/remote technology is not a mandatory policy modification. It may be used at the discretion of the VPP Manager.

A. Limited use of Virtual/Remote Technology in Recertification Evaluations

Videography and other remote similar processes may be used only for recertification evaluations. (Note that new approval evaluations will continue to be performed using traditional onsite evaluation processes.) Where temporary changes to normal work activity have interrupted recertification evaluations, certain parts of the evaluation process can be performed telephonically or through other digital means.

1. Technology may be utilized to perform as much of the recertification evaluation as possible. The VPP Manager has discretion on the planning and adjustment of their resources, as they deem necessary. However, traditional onsite evaluation methods will be used where possible and when all parties agree.
2. In general, the portions of the recertification evaluation where virtual/remote processes may be used during this temporary period are as follows:
 - a. Some employee interviews ;
 - b. Limited senior-level management interviews if the substance of the interview does not require onsite observation of operations;
 - c. Discussion with managers about administrative processes, such as recordkeeping;
 - d. Documents and records reviews; and
 - e. Photographic confirmation of completion of correction of assigned 90-day items and/or other requested post-evaluation information, made by the evaluation team during the onsite evaluation.

B. Criteria for Use of Virtual/Remote Process

VPP recertification evaluations can be conducted using virtual/remote technology contingent upon the following criteria:

1. The VPP STAR site must have been in the VPP STAR program through at least one recertification cycle. This means that the site has successfully undergone their initial VPP STAR certification evaluation and one subsequent recertification evaluation.
2. The VPP site's injury and illness rates must be below the national average based on their most recent annual evaluation. Sites on a two-year RRP (Rate Reduction Plan) may not undergo a virtual recertification evaluation.
3. The VPP site must be at full STAR level. Sites that are on Merit or One-Year Conditional status may not undergo a virtual recertification evaluation.

C. Comprehensive Use of Virtual/Remote Technology

Where the VPP Manager believes there is a long-term, effective relationship established between VOSH and the employer, maximum virtual/remote processes may be used. VOSH expects that these establishments will be small worksites where complex industrial processes are not involved.

D. Subsequent Recertification Evaluations

Where virtual/remote technology is used during the conduct of a recertification evaluation during this temporary period, the next recertification of the participant will be a comprehensive recertification, and compressed recertifications will not be used.

E. Other Onsite Evaluation Team Considerations

1. SGEs, volunteers, VOSH staff, and VPP staff participating in onsite evaluations during this temporary period will ensure they are equipped with and use the required personal protective equipment (PPE) prescribed by VOSH and by the site being evaluated. Special PPE or other work practices, designated by the Centers for Disease Control (or other public health officials), will also be used by onsite evaluation team members where required or recommended.
2. The size and composition of an onsite evaluation team may be adjusted during this period. The teams can be comprised solely of VPP and VOSH enforcement staff and may be as small as a team of two.

III. Submission of Evaluation Reports and Processing

- A. New Certifications.** The VPP Office will continue to generate, review, and process completed new participant certification packages. The Director will continue to send the certification packages based on sites' approval by the Commissioner and successful completion of the evaluation.
- B. Recertifications.** The VPP Office will continue to generate, review, and process recertification packages. The Director will continue to send out recertification packages based on sites' approval by the Commissioner and successful completion of the evaluation.

IV. Duration of Policies and Procedures Modifications

The policies and procedures modifications and guidance provided in this document are effective upon its issue. These modified processes are intended to be temporary and will remain in effect until the VPP Office staff have fully return to their normal assigned duties and participant employers have returned to normal operational status, or at least to a status considered to be representative of their normal operations. The Commissioner will notify the Director and VPP Manager when this determination has been made.