

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
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**NOTICE OF PROPOSED EMERGENCY ACTION
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
REGARDING PROPOSED CHANGES TO
CALIFORNIA CODE OF REGULATIONS, TITLE 8,
NEW SECTIONS 3205; 3205.1; 3205.2; 3205.3; and 3205.4**

COVID-19 PREVENTION

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) is proposing to take the action described in the Informative Digest as included in the Finding of Emergency. The emergency filing will adopt new sections 3205; 3205.1; 3205.2; 3205.3; and 3205.4, COVID-19 Prevention, under the California Code of Regulations, Title 8, Division 1, Chapter 4, of the General Industry Safety Orders (GISO).

Government Code Section 11346.1(a)(2) requires that, at least five (5) working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency regulation to OAL, OAL shall allow interested persons five (5) calendar days to submit comments on the proposed emergency regulation as set forth in Government Code Section 11349.6(b). For further information on the emergency rulemaking process, access the OAL website at: www.oal.ca.gov or contact the OAL reference attorney: (916) 323-6815 / staff@oal.ca.gov.

This proposed emergency action to adopt new sections 3205; 3205.1; 3205.2; 3205.3; and 3205.4 of the GISO has been placed on the agenda of the November 2020 Board Meeting:

November 19, 2020 at 10:00 a.m.

The physical meeting location has been cancelled. Remote attendance options below:

Video Conference: www.webex.com (meeting information 268 984 996)

Teleconference: (844) 992-4726 (access code 268 984 996, attendee ID #)

Live video/audio stream (English/Spanish): <https://videobookcase.com/california/oshsb/>

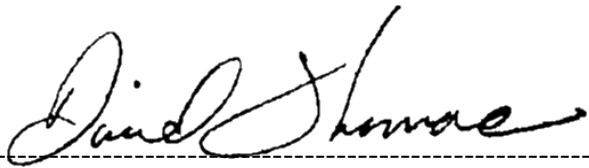
Prior to any action by the Board to adopt the proposal, the public will be given an opportunity to comment on the proposal. **You are advised, however, that comments made at this Board meeting or submitted to the Board in writing regarding this proposal will NOT be forwarded to OAL; therefore, such comments directed to the Board are NOT comments submitted to OAL in accordance with Government Code Section 11349.6.**

If this emergency proposal is adopted by the Board, the proposal will be submitted to OAL. Upon submission, OAL will have ten (10) calendar days within which to review and make a decision on the proposed emergency regulation. If approved, OAL will file the emergency regulation with the Secretary of State, and the emergency regulation will become effective for 180 days, with possible extensions¹. Within the 180-day effective period, the Board may proceed with a regular rulemaking action, including a public comment period.

Attached to this Notice are: (1) the specific new language proposed to be adopted, and (2) the Finding of Emergency required by Government Code Section 11346.1(b). You may also review the proposed regulatory language and the Finding of Emergency on the Board's website: www.dir.ca.gov/oshsb/emergencyregulations.html.

If you have any questions regarding this proposed emergency action, please contact Christina Shupe, Executive Officer, at (916) 274-5721.

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A handwritten signature in black ink, appearing to read "Dave Thomas", is written over a horizontal dashed line.

DAVE THOMAS, Chairman

¹ Pursuant to Governor Newsom's Executive Order N-40-20, the timelines for filing, refiling, certification and/or review of regulations and emergency regulations are extended for a period of 60 calendar days. These timelines are further extended for 60 days by Executive Order N-66-20.

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Subchapter 7. General Industry Safety Orders

Amend Section 3205 to read:

§ 3205. ~~“Shall” and “Should.”~~ [Repealed] COVID-19 Prevention.

(a) Scope.

(1) This section applies to all employees and places of employment, with the following exceptions:

(A) Places of employment with one employee who does not have contact with other persons.

(B) Employees working from home.

(C) Employees when covered by section 5199.

(2) Nothing in this section is intended to limit more protective or stringent state or local health department mandates or guidance.

(b) Definitions. The following definitions apply to this section and to sections 3205.1 through 3205.4.

“COVID-19” means coronavirus disease, an infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

“COVID-19 case” means a person who:

(1) Has a positive “COVID-19 test” as defined in this section;

(2) Is subject to COVID-19-related order to isolate issued by a local or state health official;
or

(3) Has died due to COVID-19, in the determination of a local health department or per inclusion in the COVID-19 statistics of a county.

A person is no longer a “COVID-19 case” in this section when a licensed health care professional determines that the person does not have COVID-19, in accordance with recommendations made by the California Department of Public Health (CDPH) or the local health department pursuant to authority granted under the Health and Safety Code or title 17, California Code of Regulations to CDPH or the local health department.

“COVID-19 exposure” means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the “high-risk exposure period” defined by this section. This definition applies regardless of the use of face coverings.

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“COVID-19 hazard” means exposure to potentially infectious material that may contain SARS-CoV-2, the virus that causes COVID-19. Potentially infectious materials include airborne droplets, small particle aerosols, and airborne droplet nuclei, which most commonly result from a person or persons exhaling, talking or vocalizing, coughing, sneezing, or procedures performed on persons which may aerosolize saliva or respiratory tract fluids, among other things. This also includes objects or surfaces that may be contaminated with SARS-CoV-2.

“COVID-19 symptoms” means fever of 100.4 degrees Fahrenheit or higher, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea, unless a licensed health care professional determines the person’s symptoms were caused by a known condition other than COVID-19.

“COVID-19 test” means a viral test for SARS-CoV-2 that is:

- (1) Approved by the United States Food and Drug Administration (FDA) or has an Emergency Use Authorization from the FDA to diagnose current infection with the SARS-CoV-2 virus; and
- (2) Administered in accordance with the FDA approval or the FDA Emergency Use Authorization as applicable.

“Exposed workplace” means any work location, working area, or common area at work used or accessed by a COVID-19 case during the high-risk period, including bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. The exposed workplace does not include buildings or facilities not entered by a COVID-19 case.

Effective January 1, 2021, the “exposed workplace” also includes but is not limited to the “worksite” of the COVID-19 case as defined by Labor Code section 6409.6(d)(5).

“Face covering” means a tightly woven fabric or non-woven material with no visible holes or openings, which covers the nose and mouth.

“High-risk exposure period” means the following time period:

- (1) For persons who develop COVID-19 symptoms: from two days before they first develop symptoms until 10 days after symptoms first appeared, and 24 hours have passed with no fever, without the use of fever-reducing medications, and symptoms have improved; or
 - (2) For persons who test positive who never develop COVID-19 symptoms: from two days before until ten days after the specimen for their first positive test for COVID-19 was collected.
- (c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the

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employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

- (1) System for communicating. The employer shall do all of the following in a form readily understandable by employees:
 - (A) Ask employees to report to the employer, without fear of reprisal, COVID-19 symptoms, possible COVID-19 exposures, and possible COVID-19 hazards at the workplace.
 - (B) Describe procedures or policies for accommodating employees with medical or other conditions that put them at increased risk of severe COVID-19 illness.
 - (C) Provide information about access to COVID-19 testing. If testing is required under this section, section 3205.1, or section 3205.2, the employer shall inform affected employees of the reason for the COVID-19 testing and the possible consequences of a positive test.
 - (D) In accordance with subsection (c)(3)(B)3., communicate information about COVID-19 hazards and the employer's COVID-19 policies and procedures to employees and to other employers, persons, and entities within or in contact with the employer's workplace.

NOTE: See subsections (c)(3)(C) and (c)(3)(D) for confidentiality requirements for COVID-19 cases.

- (2) Identification and evaluation of COVID-19 hazards.
 - (A) The employer shall allow for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards.
 - (B) The employer shall develop and implement a process for screening employees for and responding to employees with COVID-19 symptoms. The employer may ask employees to evaluate their own symptoms before reporting to work. If the employer conducts screening at the workplace, the employer shall ensure that face coverings are used during screening by both screeners and employees and, if temperatures are measured, that non-contact thermometers are used.
 - (C) The employer shall develop COVID-19 policies and procedures to respond effectively and immediately to individuals at the workplace who are a COVID-19 case to prevent or reduce the risk of transmission of COVID-19 in the workplace.
 - (D) The employer shall conduct a workplace-specific identification of all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to COVID-19 hazards. Employers shall treat all persons, regardless of symptoms or negative COVID-19 test results, as potentially infectious.

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1. This shall include identification of places and times when people may congregate or come in contact with one another, regardless of whether employees are performing an assigned work task or not, for instance during meetings or trainings and including in and around entrances, bathrooms, hallways, aisles, walkways, elevators, break or eating areas, cool-down areas, and waiting areas.
2. This shall include an evaluation of employees' potential workplace exposure to all persons at the workplace or who may enter the workplace, including coworkers, employees of other entities, members of the public, customers or clients, and independent contractors. Employers shall consider how employees and other persons enter, leave, and travel through the workplace, in addition to addressing fixed work locations.
 - (E) For indoor locations, the employer shall evaluate how to maximize the quantity of outdoor air and whether it is possible to increase filtration efficiency to the highest level compatible with the existing ventilation system.
 - (F) The employer shall review applicable orders and guidance from the State of California and the local health department related to COVID-19 hazards and prevention, including information of general application and information specific to the employer's industry, location, and operations.
 - (G) The employer shall evaluate existing COVID-19 prevention controls at the workplace and the need for different or additional controls. This includes evaluation of controls in subsections (c)(4), and (c)(6) through (c)(8).
 - (H) The employer shall conduct periodic inspections as needed to identify unhealthy conditions, work practices, and work procedures related to COVID-19 and to ensure compliance with employers' COVID-19 policies and procedures.
- (3) Investigating and responding to COVID-19 cases in the workplace.
 - (A) Employers shall have an effective procedure to investigate COVID-19 cases in the workplace. This includes procedures for verifying COVID-19 case status, receiving information regarding COVID-19 test results and onset of COVID-19 symptoms, and identifying and recording COVID-19 cases.
 - (B) The employer shall take the following actions when there has been a COVID-19 case at the place of employment:
 1. Determine the day and time the COVID-19 case was last present and, to the extent possible, the date of the positive COVID-19 test(s) and/or diagnosis, and the date the

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COVID-19 case first had one or more COVID-19 symptoms, if any were experienced.

2. Determine who may have had a COVID-19 exposure. This requires an evaluation of the activities of the COVID-19 case and all locations at the workplace which may have been visited by the COVID-19 case during the high-risk exposure period.

Note: See subsection (c)(10) for exclusion requirements for employees with COVID-19 exposure.

3. Give notice of the potential COVID-19 exposure, within one business day, in a way that does not reveal any personal identifying information of the COVID-19 case, to the following:
 - a. All employees who may have had COVID-19 exposure and their authorized representatives.
 - b. Independent contractors and other employers present at the workplace during the high-risk exposure period.
4. Offer COVID-19 testing at no cost to employees during their working hours to all employees who had potential COVID-19 exposure in the workplace and provide them with the information on benefits described in subsections (c)(5)(B) and (c)(10)(C).
5. Investigate whether any workplace conditions could have contributed to the risk of COVID-19 exposure and what could be done to reduce exposure to COVID-19 hazards.

- (C) Personal identifying information of COVID-19 cases or persons with COVID-19 symptoms shall be kept confidential. All COVID-19 testing or related medical services provided by the employer under this section and sections 3205.1 through 3205.4 shall be provided in a manner that ensures the confidentiality of employees.

EXCEPTION to subsection (c)(3)(C): Unredacted information on COVID-19 cases shall be provided to the local health department, CDPH, the Division, the National Institute for Occupational Safety and Health (NIOSH), or as otherwise required by law immediately upon request.

- (D) The employer shall ensure that all employee medical records required by this section and sections 3205.1 through 3205.4 are kept confidential and are not disclosed or

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reported without the employee's express written consent to any person within or outside the workplace.

EXCEPTION 1 to subsection (c)(3)(D): Unredacted medical records shall be provided to the local health department, CDPH, the Division, NIOSH, or as otherwise required by law immediately upon request.

EXCEPTION 2 to subsection (c)(3)(D): This provision does not apply to records that do not contain individually identifiable medical information or from which individually identifiable medical information has been removed.

- (4) Correction of COVID-19 hazards. Employers shall implement effective policies and/or procedures for correcting unsafe or unhealthy conditions, work practices, policies and procedures in a timely manner based on the severity of the hazard. This includes, but is not limited to, implementing controls and/or policies and procedures in response to the evaluations conducted under subsections (c)(2) and (c)(3) and implementing the controls required by subsection (c)(6) through (c)(8).
- (5) Training and instruction. The employer shall provide effective training and instruction to employees that includes the following:
 - (A) The employer's COVID-19 policies and procedures to protect employees from COVID-19 hazards.
 - (B) Information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. This includes any benefits available under workers' compensation law, the federal Families First Coronavirus Response Act, Labor Code sections 248.1 and 248.5, Labor Code sections 3212.86 through 3212.88, local governmental requirements, the employer's own leave policies, and leave guaranteed by contract.
 - (C) The fact that COVID-19 is an infectious disease that can be spread through the air when an infectious person talks or vocalizes, sneezes, coughs, or exhales; that COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth, although that is less common; and that an infectious person may have no symptoms.
 - (D) Methods of physical distancing of at least six feet and the importance of combining physical distancing with the wearing of face coverings.
 - (E) The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing must be combined with other controls, including face coverings and hand hygiene, to be effective.

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- (F) The importance of frequent hand washing with soap and water for at least 20 seconds and using hand sanitizer when employees do not have immediate access to a sink or hand washing facility, and that hand sanitizer does not work if the hands are soiled.
 - (G) Proper use of face coverings and the fact that face coverings are not respiratory protective equipment.
 - (H) COVID-19 symptoms, and the importance of not coming to work and obtaining a COVID-19 test if the employee has COVID-19 symptoms.
- (6) Physical distancing.
- (A) All employees shall be separated from other persons by at least six feet, except where an employer can demonstrate that six feet of separation is not possible, and except for momentary exposure while persons are in movement. Methods of physical distancing include: telework or other remote work arrangements; reducing the number of persons in an area at one time, including visitors; visual cues such as signs and floor markings to indicate where employees and others should be located or their direction and path of travel; staggered arrival, departure, work, and break times; and adjusted work processes or procedures, such as reducing production speed, to allow greater distance between employees.
 - (B) When it is not possible to maintain a distance of at least six feet, individuals shall be as far apart as possible.
- (7) Face coverings.
- (A) Employers shall provide face coverings and ensure they are worn by employees over the nose and mouth when indoors, when outdoors and less than six feet away from another person, and where required by orders from the CDPH or local health department. Employers shall ensure face coverings are clean and undamaged. Face shields are not a replacement for face coverings, although they may be worn together for additional protection. The following are exceptions to the face coverings requirement:
 1. When an employee is alone in a room.
 2. While eating and drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent possible.
 3. Employees wearing respiratory protection in accordance with section 5144 or other title 8 safety orders.
 4. Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person.

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5. Specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed, and the unmasked employee shall be at least six feet away from all other persons unless unmasked employees are tested at least twice weekly for COVID-19.

NOTE: CDPH has issued guidance for employers that identifies examples when wearing a face covering is likely not feasible.

- (B) Employees exempted from wearing face coverings due to a medical condition, mental health condition, or disability shall wear an effective non-restrictive alternative, such as a face shield with a drape on the bottom, if their condition or disability permits it.
 - (C) Any employee not wearing a face covering, face shield with a drape or other effective alternative, or respiratory protection, for any reason, shall be at least six feet apart from all other persons unless the unmasked employee is tested at least twice weekly for COVID-19. Employers may not use COVID-19 testing as an alternative to face coverings when face coverings are otherwise required by this section.
 - (D) No employer shall prevent any employee from wearing a face covering when not required by this section, unless it would create a safety hazard, such as interfering with the safe operation of equipment.
 - (E) Employers shall implement measures to communicate to non-employees the face coverings requirements on their premises.
 - (F) The employer shall develop COVID-19 policies and procedures to minimize employee exposure to COVID-19 hazards originating from any person not wearing a face covering, including a member of the public.
- (8) Other engineering controls, administrative controls, and personal protective equipment.
- (A) At fixed work locations where it is not possible to maintain the physical distancing requirement at all times, the employer shall install cleanable solid partitions that effectively reduce aerosol transmission between the employee and other persons.
 - (B) For buildings with mechanical or natural ventilation, or both, employers shall maximize the quantity of outside air provided to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or letting in outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.
 - (C) Employers shall implement cleaning and disinfecting procedures, which require:
 - 1. Identifying and regularly cleaning and disinfecting frequently touched surfaces and objects, such as doorknobs, elevator buttons, equipment, tools, handrails, handles, controls, bathroom surfaces, and steering wheels. The employer shall inform

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- employees and authorized employee representatives of cleaning and disinfection protocols, including the planned frequency and scope of regular cleaning and disinfection.
2. Prohibiting the sharing of personal protective equipment and to the extent feasible, items that employees come in regular physical contact with such as phones, headsets, desks, keyboards, writing materials, instruments, and tools. When it is not feasible to prevent sharing, sharing shall be minimized and such items and equipment shall be disinfected between uses by different people. Sharing of vehicles shall be minimized to the extent feasible, and high touch points (steering wheel, door handles, seatbelt buckles, armrests, shifter, etc.) shall be disinfected between users.
 3. Cleaning and disinfection of areas, material, and equipment used by a COVID-19 case during the high-risk exposure period.

NOTE: Cleaning and disinfecting must be done in a manner that does not create a hazard to employees. See Group 2 and Group 16 of the General Industry Safety Orders for further information.

- (D) To protect employees from COVID-19 hazards, the employer shall evaluate its handwashing facilities, determine the need for additional facilities, encourage and allow time for employee handwashing, and provide employees with an effective hand sanitizer. Employers shall encourage employees to wash their hands for at least 20 seconds each time. Provision or use of hand sanitizers with methyl alcohol is prohibited.
- (E) Personal protective equipment.
1. Employers shall evaluate the need for personal protective equipment to prevent exposure to COVID-19 hazards, such as gloves, goggles, and face shields, and provide such personal protective equipment as needed.
 2. Employers shall evaluate the need for respiratory protection in accordance with section 5144 when the physical distancing requirements in subsection (c)(6) are not feasible or are not maintained.
 3. Employers shall provide and ensure use of respirators in accordance with section 5144 when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8 section 332.3.
 4. Employers shall provide and ensure use of eye protection and respiratory protection in accordance with section 5144 when employees are exposed to procedures that

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may aerosolize potentially infectious material such as saliva or respiratory tract fluids.

NOTE: Examples of work covered by subsection (c)(8)(E)4. include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.

(9) Reporting, recordkeeping, and access.

- (A) The employer shall report information about COVID-19 cases at the workplace to the local health department whenever required by law, and shall provide any related information requested by the local health department.
- (B) The employer shall report immediately to the Division any COVID-19-related serious illnesses or death, as defined under section 330(h), of an employee occurring in a place of employment or in connection with any employment.
- (C) The employer shall maintain records of the steps taken to implement the written COVID-19 Prevention Program in accordance with section 3203(b).
- (D) The written COVID-19 Prevention Program shall be made available at the workplace to employees, authorized employee representatives, and to representatives of the Division immediately upon request.
- (E) The employer shall keep a record of and track all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, the date of the last day at the workplace, and the date of a positive COVID-19 test. Medical information shall be kept confidential in accordance with subsections (c)(3)(C) and (c)(3)(D). The information shall be made available to employees, authorized employee representatives, or as otherwise required by law, with personal identifying information removed.

Note: Subsection (c)(9)(E) does not alter the right of employees or their representatives to request and obtain an employer's Log of Work-Related Injuries and Illnesses (Log 300), without redaction, or to request and obtain information as otherwise allowed by law.

- (10) Exclusion of COVID-19 cases. The purpose of this subsection is to limit transmission of COVID-19 in the workplace.

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- (A) Employers shall ensure that COVID-19 cases are excluded from the workplace until the return to work requirements of subsection (c)(11) are met.
- (B) Employers shall exclude employees with COVID-19 exposure from the workplace for 14 days after the last known COVID-19 exposure to a COVID-19 case.
- (C) For employees excluded from work under subsection (c)(10) and otherwise able and available to work, employers shall continue and maintain an employee's earnings, seniority, and all other employee rights and benefits, including the employee's right to their former job status, as if the employee had not been removed from their job. Employers may use employer-provided employee sick leave benefits for this purpose and consider benefit payments from public sources in determining how to maintain earnings, rights and benefits, where permitted by law and when not covered by workers' compensation.

EXCEPTION 1: Subsection (c)(10)(C) does not apply to any period of time during which the employee is unable to work for reasons other than protecting persons at the workplace from possible COVID-19 transmission.

EXCEPTION 2: Subsection (c)(10)(C) does not apply where the employer demonstrates that the COVID-19 exposure is not work related.

- (D) Subsection (c)(10) does not limit any other applicable law, employer policy, or collective bargaining agreement that provides for greater protections.
- (E) At the time of exclusion, the employer shall provide the employee the information on benefits described in subsections (c)(5)(B) and (c)(10)(C).

EXCEPTION to subsection (c)(10): Employees who have not been excluded or isolated by the local health department need not be excluded by the employer, if they are temporarily reassigned to work where they do not have contact with other persons until the return to work requirements of subsection (c)(11) are met.

(11) Return to work criteria.

- (A) COVID-19 cases with COVID-19 symptoms shall not return to work until:
 - 1. At least 24 hours have passed since a fever of 100.4 or higher has resolved without the use of fever-reducing medications;
 - 2. COVID-19 symptoms have improved; and
 - 3. At least 10 days have passed since COVID-19 symptoms first appeared.
- (B) COVID-19 cases who tested positive but never developed COVID-19 symptoms shall not return to work until a minimum of 10 days have passed since the date of specimen collection of their first positive COVID-19 test.

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- (C) A negative COVID-19 test shall not be required for an employee to return to work.
- (D) If an order to isolate or quarantine an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine is completed or the order is lifted. If no period was specified, then the period shall be 10 days from the time the order to isolate was effective, or 14 days from the time the order to quarantine was effective.
- (E) If there are no violations of local or state health officer orders for isolation or quarantine, the Division may, upon request, allow employees to return to work on the basis that the removal of an employee would create undue risk to a community's health and safety. In such cases, the employer shall develop, implement, and maintain effective control measures to prevent transmission in the workplace including providing isolation for the employee at the workplace and, if isolation is not possible, the use of respiratory protection in the workplace.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

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Add new section 3205.1 to read:

§ 3205.1. Multiple COVID-19 Infections and COVID-19 Outbreaks.

(a) Scope.

- (1) This section applies to a place of employment covered by section 3205 if it has been identified by a local health department as the location of a COVID-19 outbreak or when there are three or more COVID-19 cases in an exposed workplace within a 14-day period.
- (2) This section shall apply until there are no new COVID-19 cases detected in a workplace for a 14-day period.

(b) COVID-19 testing.

- (1) The employer shall provide COVID-19 testing to all employees at the exposed workplace except for employees who were not present during the period of an outbreak identified by a local health department or the relevant 14-day period(s) under subsection (a), as applicable. COVID-19 testing shall be provided at no cost to employees during employees' working hours.

(2) COVID-19 testing shall consist of the following:

- (A) Immediately upon being covered by this section, all employees in the exposed workplace shall be tested and then tested again one week later. Negative COVID-19 test results of employees with COVID-19 exposure shall not impact the duration of any quarantine period required by, or orders issued by, the local health department.
- (B) After the first two COVID-19 tests required by (b)(2)(A), employers shall provide continuous COVID-19 testing of employees who remain at the workplace at least once per week, or more frequently if recommended by the local health department, until this section no longer applies pursuant to subsection (a)(2).
- (C) Employers shall provide additional testing when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8 section 332.3.

- (c) Exclusion of COVID-19 cases. Employers shall ensure COVID-19 cases and employees who had COVID-19 exposure are excluded from the workplace in accordance with subsections 3205(c)(10) and (c)(11) and local health officer orders if applicable.
- (d) Investigation of workplace COVID-19 illness. The employer shall immediately investigate and determine possible workplace related factors that contributed to the COVID-19 outbreak in accordance with subsection 3205(c)(3).
- (e) COVID-19 Investigation, review and hazard correction. In addition to the requirements of subsection 3205(c)(2) and 3205(c)(4), the employer shall immediately perform a review of

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potentially relevant COVID-19 policies, procedures, and controls and implement changes as needed to prevent further spread of COVID-19. The investigation and review shall be documented and include:

- (1) Investigation of new or unabated COVID-19 hazards including the employer's leave policies and practices and whether employees are discouraged from remaining home when sick; the employer's COVID-19 testing policies; insufficient outdoor air; insufficient air filtration; and lack of physical distancing.
 - (2) The review shall be updated every thirty days that the outbreak continues, in response to new information or to new or previously unrecognized COVID-19 hazards, or when otherwise necessary.
 - (3) The employer shall implement changes to reduce the transmission of COVID-19 based on the investigation and review required by subsections (e)(1) and (e)(2). The employer shall consider moving indoor tasks outdoors or having them performed remotely, increasing outdoor air supply when work is done indoors, improving air filtration, increasing physical distancing as much as possible, respiratory protection, and other applicable controls.
- (f) Notifications to the local health department.
- (1) The employer shall contact the local health department immediately but no longer than 48 hours after the employer knows, or with diligent inquiry would have known, of three or more COVID-19 cases for guidance on preventing the further spread of COVID-19 within the workplace.
 - (2) The employer shall provide to the local health department the total number of COVID-19 cases and for each COVID-19 case, the name, contact information, occupation, workplace location, business address, the hospitalization and/or fatality status, and North American Industry Classification System code of the workplace of the COVID-19 case, and any other information requested by the local health department. The employer shall continue to give notice to the local health department of any subsequent COVID-19 cases at the workplace.
 - (3) Effective January 1, 2021, the employer shall provide all information to the local health department required by Labor Code section 6409.6.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

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Add new section 3205.2 to read:

§ 3205.2. Major COVID-19 Outbreaks.

(a) Scope.

- (1) This section applies to any place of employment covered by section 3205 when there are 20 or more COVID-19 cases in an exposed workplace within a 30-day period.
- (2) This section shall apply until there are no new COVID-19 cases detected in a workplace for a 14-day period.

(b) COVID-19 testing. Employers shall provide twice a week COVID-19 testing, or more frequently if recommended by the local health department, to all employees present at the exposed workplace during the relevant 30-day period(s) and who remain at the workplace. COVID-19 testing shall be provided at no cost to employees during employees' working hours.

(c) Exclusion of COVID-19 cases. Employers shall ensure COVID-19 cases and employees with COVID-19 exposure are excluded from the workplace in accordance with subsections 3205(c)(10) and (c)(11) and any relevant local health department orders.

(d) Investigation of workplace COVID-19 illnesses. The employer shall comply with the requirements of subsection 3205(c)(3).

(e) COVID-19 hazard correction. In addition to the requirements of subsection 3205(c)(4), the employer shall take the following actions:

- (1) In buildings or structures with mechanical ventilation, employers shall filter recirculated air with Minimum Efficiency Reporting Value (MERV) 13 or higher efficiency filters if compatible with the ventilation system. If MERV-13 or higher filters are not compatible with the ventilation system, employers shall use filters with the highest compatible filtering efficiency. Employers shall also evaluate whether portable or mounted High Efficiency Particulate Air (HEPA) filtration units, or other air cleaning systems would reduce the risk of transmission and shall implement their use to the degree feasible.
- (2) The employer shall determine the need for a respiratory protection program or changes to an existing respiratory protection program under section 5144 to address COVID-19 hazards.
- (3) The employer shall evaluate whether to halt some or all operations at the workplace until COVID-19 hazards have been corrected.
- (4) Any other control measures deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8 section 332.3.

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(f) Notifications to the local health department. Employers shall comply with the requirements of section 3205.1(f).

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

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Add new section 3205.3 to read:

§ 3205.3. COVID-19 Prevention in Employer-Provided Housing.

(a) Scope. This section applies to employer-provided housing. Employer-provided housing is any place or area of land, any portion of any housing accommodation, or property upon which a housing accommodation is located, consisting of: living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobile home, manufactured home, recreational vehicle, travel trailer, or other housing accommodations. Employer-provided housing includes a “labor camp” as that term is used in title 8 of the California Code of Regulations or other regulations or codes. The employer-provided housing may be maintained in one or more buildings or one or more sites, including hotels and motels, and the premises upon which they are situated, or the area set aside and provided for parking of mobile homes or camping. Employer-provided housing is housing that is arranged for or provided by an employer, other person, or entity to workers, and in some cases to workers and persons in their households, in connection with the worker’s employment, whether or not rent or fees are paid or collected.

The following exceptions apply:

- (1) This section does not apply to housing provided for the purpose of emergency response, including firefighting, rescue, and evacuation, and support activities directly aiding response such as utilities, communications, and medical operations, if:
 - (A) The employer is a government entity; or
 - (B) The housing is provided temporarily by a private employer and is necessary to conduct the emergency response operations.
 - (2) Subsections (c), (d), (e), (f), and (h) do not apply to occupants who maintained a household together prior to residing in employer-provided housing, such as family members, when no other persons outside the household are present.
- (b) Assignment of housing units. Employers shall ensure that shared housing unit assignments are prioritized in the following order:
- (1) Residents who usually maintain a household together outside of work, such as family members, shall be housed in the same housing unit without other persons.
 - (2) Residents who work in the same crew or work together at the same worksite shall be housed in the same housing unit without other persons.
 - (3) Employees who do not usually maintain a common household, work crew, or worksite shall be housed in the same housing unit only when no other housing alternatives are possible.

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(c) Physical distancing and controls. Employers shall:

- (1) Ensure the premises are of sufficient size and layout to permit at least six feet of physical distancing between residents in housing units, common areas, and other areas of the premises.
- (2) Ensure beds are spaced at least six feet apart in all directions and positioned to maximize the distance between sleepers' heads. For beds positioned next to each other, i.e. side by side, the beds shall be arranged so that the head of one bed is next to the foot of the next bed. For beds positioned across from each other, i.e. end to end, the beds shall be arranged so that the foot of one bed is closest to the foot of the next bed. Bunk beds shall not be used.
- (3) In housing units, maximize the quantity and supply of outdoor air and increase filtration efficiency to the highest level compatible with the existing ventilation system.

(d) Face coverings. Employers shall provide face coverings to all residents and provide information to residents on when they should be used in accordance with state or local health officer orders or guidance.

(e) Cleaning and disinfecting.

- (1) Employers shall ensure that housing units, kitchens, bathrooms, and common areas are effectively cleaned and disinfected at least once a day to prevent the spread of COVID-19. Cleaning and disinfecting shall be done in a manner that protects the privacy of residents.
- (2) Employers shall ensure that unwashed dishes, drinking glasses, cups, eating utensils, and similar items are not shared.

(f) Screening. The employer shall encourage residents to report COVID-19 symptoms to the employer.

(g) COVID-19 testing. The employer shall establish, implement, and maintain effective policies and procedures for COVID-19 testing of occupants who had a COVID-19 exposure, who have COVID-19 symptoms, or as recommended by the local health department.

(h) Isolation of COVID-19 cases and persons with COVID-19 exposure.

- (1) Employers shall effectively isolate COVID-19 exposed residents from all other occupants. Effective isolation shall include providing COVID-19 exposed residents with a private bathroom, sleeping area, and cooking and eating facility.
- (2) Employers shall effectively isolate COVID-19 cases from all occupants who are not COVID-19 cases. Effective isolation shall include housing COVID-19 cases only with other COVID-19 cases, and providing COVID-19 case occupants with a sleeping area,

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bathroom, and cooking and eating facility that is not shared by non-COVID-19 case occupants.

- (3) Personal identifying information regarding COVID-19 cases and persons with COVID-19 symptoms shall be kept confidential in accordance with subsections 3205(c)(3)(C) and 3205(c)(3)(D).
- (4) Employers shall end isolation in accordance with subsections 3205(c)(10) and (c)(11) and any applicable local or state health officer orders.

Note: Authority cited: Section 142.3, Labor Code, Section 1708, Health and Safety Code.
Reference: Sections 142.3 and 144.6, Labor Code.

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Add new section 3205.4 to read:

§ 3205.4. COVID-19 Prevention in Employer-Provided Transportation to and from Work.

- (a) Scope. This section applies to employer-provided motor vehicle transportation to and from work, which is any transportation of an employee, during the course and scope of employment, provided, arranged for, or secured by an employer including ride-share vans or shuttle vehicles, car-pools, and private charter buses, regardless of the travel distance or duration involved. Subsections (b) through (g) apply to employer-provided transportation. The following exceptions apply:
- (1) This section does not apply if the driver and all passengers are from the same household outside of work, such as family members.
 - (2) This section does not apply to employer-provided transportation when necessary for emergency response, including firefighting, rescue, and evacuation, and support activities directly aiding response such as utilities, communications, and medical operations.
- (b) Assignment of transportation. Employers shall prioritize shared transportation assignments in the following order:
- (1) Employees residing in the same housing unit shall be transported in the same vehicle.
 - (2) Employees working in the same crew or worksite shall be transported in the same vehicle.
 - (3) Employees who do not share the same household, work crew or worksite shall be transported in the same vehicle only when no other transportation alternatives are possible.
- (c) Physical distancing and face coverings. Employers shall ensure that:
- (1) Physical distancing and face covering requirements of subsection 3205(c)(6) and (c)(7) are followed for employees waiting for transportation.
 - (2) The vehicle operator and any passengers are separated by at least three feet in all directions during the operation of the vehicle, regardless of the vehicle's normal capacity.
 - (3) The vehicle operator and any passengers are provided and wear a face covering in the vehicle as required by subsection 3205(c)(7).
- (d) Screening. Employers shall develop, implement, and maintain effective procedures for screening and excluding drivers and riders with COVID-19 symptoms prior to boarding shared transportation.
- (e) Cleaning and disinfecting. Employers shall ensure that:

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- (1) All high-contact surfaces (door handles, seatbelt buckles, armrests, etc.) used by passengers are cleaned and disinfected before each trip.
- (2) All high-contact surfaces used by drivers, such as the steering wheel, armrests, seatbelt buckles, door handles and shifter, shall be cleaned and disinfected between different drivers.
- (3) Employers shall provide sanitizing materials and ensure they are kept in adequate supply.
- (f) Ventilation. Employers shall ensure that vehicle windows are kept open, and the ventilation system set to maximize outdoor air and not set to recirculate air. Windows do not have to be kept open if one or more of the following conditions exist:
 - (1) The vehicle has functioning air conditioning in use and the outside temperature is greater than 90 degrees Fahrenheit.
 - (2) The vehicle has functioning heating in use and the outside temperature is less than 60 degrees Fahrenheit.
 - (3) Protection is needed from weather conditions, such as rain or snow.
 - (4) The vehicle has a cabin air filter in use and the U.S. EPA Air Quality Index for any pollutant is greater than 100.
- (g) Hand hygiene. Employers shall provide hand sanitizer in each vehicle and ensure that all drivers and riders sanitize their hands before entering and exiting the vehicle. Hand sanitizers with methyl alcohol are prohibited.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.