

Cal/OSHA COVID-19 Prevention Emergency Regulations

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<https://www.dir.ca.gov/dosh/coronavirus/ETS.html>

Effective Date: November 30, 2020

- FAQs: <https://www.dir.ca.gov/dosh/coronavirus/COVID19FAQs.html>
- These regulations have many provisions already required by 3203 Injury and Illness Prevention Programs (IIPP):
 - identification and correction of hazards
 - use of face coverings
 - physical distancing

“As employers implement the new regulations, Cal/OSHA enforcement personnel will consider an employer’s good faith efforts in working towards compliance, but some aspects such as eliminating hazards and implementing testing requirements during an outbreak are essential.”

Five New Sections

- 3205, *COVID-19 Prevention*
- 3205.1, *Multiple COVID-19 Infections and COVID-19 Outbreaks*
- 3205.2, *Major COVID-19 Outbreaks*
- 3205.3, *COVID-19 Prevention in Employer-Provided Housing*
- 3205.4, *COVID-19 Prevention in Employer-Provided Transportation to and from Work*

3205 COVID-19 Prevention

(a) Scope

(a)(1) Applies to all employees and places of employment, with the following exceptions:

(A) Workplace with 1 employee who does not have contact with other people.

(B) Employees working from home.

(C) Employees covered by section 5199 [Aerosol Transmissible Diseases (ATD)].

(However, 3205 covers certain administrative, payroll, call center, etc. employees of hospitals and other 5199 employers)

3205 COVID-19 Prevention

(b) Definitions

- (b)(1) COVID-19
- (b)(2) COVID-19 case
- (b)(3) COVID-19 exposure
- (b)(4) COVID-19 hazard
- (b)(5) COVID-19 symptoms
- (b)(6) COVID-19 test
- (b)(7) Exposed workplace
- (b)(8) Face covering
- (b)(9) High-risk exposure period

3205 COVID-19 Prevention

(c) Written Prevention Program

Builds on IIPP and state COVID-19 prevention guidance

- (c)(1) Communication with employees
- (c)(2) Identifying and evaluating hazards
- (c)(3) Investigating and responding to COVID-19 cases
- (c)(4) Correction of hazards
- (c)(5) Training
- (c)(6) Physical distancing
- (c)(7) Face coverings
- (c)(8) Additional engineering, administrative, and PPE controls
- (c)(9) Illness reporting and recordkeeping. Employee access to prevention program
- (c)(10) Exclusion of workers and (c)(11) Return to work criteria.

3205 COVID-19 Prevention

(c)(1) Communication with Employees

- **Must be readily understandable by employees**
- **How to report** COVID-19 symptoms, exposures, and hazards to the employer **without fear of reprisal**;
- **COVID-19 hazards in the workplace** and the employer's policies and procedures to address them;
- Any **procedures the employer may have for accommodating employees with elevated risk factors** for COVID-19
- **Access to voluntary testing** (via the employer, health plan, community testing center, etc.)

3205 COVID-19 Prevention

(c)(2) Hazard Identification and Evaluation

- Allow participation: employees & employees' authorized representatives (unions)
- Symptom Screening
- Procedures to immediately address COVID-19 cases;
- Conduct a site-specific evaluation, including all person-to-person interactions
- Indoor locations: determine how to
 - maximize outdoor air
 - if its possible to increase filtration efficiency of the existing ventilation system.
- Conduct periodic inspections of workplace for compliance with prevention policies and to identify new hazards;

3205 COVID-19 Prevention

(c)(3) Responding to COVID-19 cases

- Determine when COVID-19 case was last in workplace, date of testing, onset of symptoms
- Determine employees who were exposed to COVID-19
- Notify exposed employees, their unions, and other employers within one business day
- Offer testing to exposed employees at no cost and on paid time
(testing does not have to be at the workplace)
- Investigate exposure, whether workplace conditions may have contributed to COVID-19 risks, and corrections to reduce COVID-19 exposures
- (c)(9) recordkeeping & reporting
- (c)(10) excluding employees
- (c)(11) return to work

3205 COVID-19 Prevention

(c)(4) Correction of COVID-19 hazards.

- **Correct unsafe or unhealthy conditions, work practices, policies and procedures**
 - Correct hazards identified in inspections & evaluations required by (c)(2)
 - Correct hazards identified in illness investigations required by (c)(3)
 - Implement controls required by
 - (c)(6) face coverings
 - (c)(7) physical distancing
 - (c)(8) engineering controls, administrative controls, personal protective equipment

3205 COVID-19 Prevention

(c)(5) Training

- (A) Employer's COVID-19 policies & procedures
- (B) COVID-19-related employee benefits available
- (C) Modes of transmission
- (D) Physical distancing
- (E) Need to combine face coverings and other controls with physical distancing
- (F) Hand washing
- (G) Face coverings. Face coverings are not respiratory protective equipment.
- (H) COVID-19 symptoms. If employee has symptoms, recommend not coming to work and getting a COVID-19 test.

3205 COVID-19 Prevention

(c)(6) Physical Distancing, (c)(7) Face Coverings

- (c)(6) **Physical distancing:** At least 6 feet of distance between persons
 - Employer has burden of demonstrating when not possible
- (c)(7) **Face Coverings:**
 - Whenever indoors
 - Outdoors and less than 6 feet distancing between persons
 - Exceptions for eating, being alone in a room, using a respirator, medical conditions, and not feasible due to work tasks
 - Regular testing (twice a week) is required for employees that can neither physically distance or wear face coverings due to their job

3205 COVID-19 Prevention

(c)(8) Engineering & Administrative Controls, PPE

- **Engineering Controls**

- Solid partitions at fixed workstation when distancing is not possible
- Maximize the quantity of outside air except when the AQI is > 100

- **Administrative Controls**

- Cleaning of frequently touched surfaces
- PPE: do not share
- Personal items (phones, headsets, instruments, tools): do not share, or clean/disinfect between uses
- Handwashing and hand sanitizer

- **PPE**

- Evaluate need for PPE to prevent exposure to COVID-19 hazards
- Eye and respiratory protection for aerosol generating procedures not covered by ATD Standard (i.e. dentistry)

3205 COVID-19 Prevention

(c)(9) Reporting, recordkeeping, and employee access to written program

- Report cases to local health department when required by law,
- Report work-related serious illnesses and death to Cal/OSHA
- Maintain inspection records and training records as required by 3203
- Make COVID-19 Prevention Program available to employees and union representatives
- Record all COVID-19 cases

3205 COVID-19 Prevention

(c)(10) Exclusion

Excluded employees:

- (1) **test positive** for COVID-19, or
- (2) had **COVID-19 exposure**.

EXCEPTION: employees can work from home or otherwise isolated

Preservation of Pay and Benefits

- Able and available to work (i.e. if they are sick, remedy would be workers' compensation)
- Employer may require employee to use sick leave
- Employer may offset payments by amount an employee receives in other benefit payments.

EXCEPTION: employer can show exposure was not work related.

3205 COVID-19 Prevention

(c)(11) Return to Work

Return to work criteria (same as CDC and CDPH)

- **Symptomatic positive workers:**
 - 1) 10 days pass since first symptoms,
 - 2) 24 hours w/o fever, and
 - 3) symptoms improving
- **Asymptomatic positive workers:** 10 days after specimen collection
- **Exposed workers:** CDPH/local health dept recommendation, 10 days from exposure for most workplaces (*changed on 12-14-20 by executive order*)

Key Definitions

“COVID-19 Exposure”

- 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.”

This definition applies regardless of the use of face coverings.

Key Definitions

“Exposed workplace”

- 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.

NOTE: Cal/OSHA does not expect employers to treat areas where masked workers momentarily pass through the same space without interacting or congregating as an “exposed workplace.”

<https://www.dir.ca.gov/dosh/coronavirus/COVID19FAQs.html>

Key Definitions

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

(A) Symptomatic: 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:

(B) Asymptomatic: For persons who test positive but 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.

3205.1 COVID-19 Outbreaks

- **Outbreak:** three or more cases in a 14 day period in an “*exposed workplace*”
- Immediately test all employees in the **exposed workplace**
 - Repeat testing one week later
 - Continue weekly testing until there are no new cases in a 14 day period
- Exclude COVID-19 cases & COVID-19 **exposed employees**.
- Investigate & determine workplace factors that may contribute to **COVID-19 outbreak**
- Review and update COVID-19 prevention policies, procedures, controls
- Consider additional engineering, administrative, and PPE controls
- Notify local health department of the outbreak

3205.2 Major COVID-19 Outbreaks.

Major Outbreak: 20 or more cases in a 30 day period in an “*exposed workplace*”

- Similar requirements as 3205.1 with enhancements:
 - Testing increases to twice weekly
 - Enhance ventilation filtration efficiency of mechanical ventilation systems
 - Evaluate use of HEPA filtration units for poorly ventilated areas
 - Evaluate need for respiratory protection program
 - Consider halting all or part of operations to control the virus

3205.3. Employer-Provided Housing

- Prioritize housing assignments
 - (1) Residents who usually maintain a household together outside of work, such as family members,
 - (2) Residents who work together
- Physical distancing
- Face coverings
- Cleaning and disinfecting
- Symptom screening
- COVID-19 testing: COVID-19 exposure, COVID-19 symptoms, health department recommendation
- Isolation of COVID-19 cases and persons with COVID-19 exposure

3205.4. Employer-Provided Transportation

- Prioritize transportation assignments
 - (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.
- Physical distancing: 6 feet while waiting, 3 feet in vehicle
- Face coverings
- Symptom screening: exclude persons with symptoms in vehicle
- Cleaning and disinfecting
- Ventilation: open windows and do not recirculate air
- Hand hygiene

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