

## COVID-19 Emergency Temporary Standards Frequently Asked Questions

December 18, 2020

### Scope of Coverage

**Q:** Which employers must comply with the COVID-19 emergency temporary standard (ETS)?

**A:** The ETS applies to all employers, employees, and to all places of employment with three exceptions:

- Workplaces where there is only one employee who does not have contact with other people
- Employees who are working from home
- Employees who are covered by the [Aerosol Transmissible Diseases](#) regulation

**Q:** Does the ETS apply for employees who split their work time between home and the workplace?

**A:** Yes, however, the regulation applies only when the employees work at the workplace, or are exposed at work, but not when they work from home.

**Q:** Does the regulation apply to any facility that is subject to the Aerosol Transmissible Diseases (ATD) standard?

**A:** The ETS applies to employees at these facilities who are not identified in the employer's Aerosol Transmissible Diseases Exposure Control Plan, as required under California's Aerosol Transmissible Diseases (ATD) standard ([CCR section 5199](#)), as having occupational exposure to aerosol transmissible diseases, such as administrative employees who work only in an office environment separated from patient care facilities.

### Effective Date

**Q:** When must employers comply with the ETS?

**A:** November 30, 2020, the day the Office of Administrative Law approved the ETS.

**Q:** What if an employer is unable to comply with the ETS by its effective date?

**A:** Many of the provisions of these regulations have already been required under [employers' Injury and Illness Prevention Programs](#) (IIPP), including the requirement to identify and address hazards, use of face coverings, and 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.

## The COVID-19 Prevention Program

**Q:** What are the main requirements of the ETS?

**A:** To comply with the ETS, an employer must develop a written COVID-19 Prevention Program or ensure its elements are included in an existing [Injury and Illness Prevention Program](#) (IIPP). The employer must implement the following in accordance with their written program:

- Communication to employees about the employer's COVID-19 prevention procedures
- Identify, evaluate and correct COVID-19 hazards
- Physical distancing of at least six feet unless it is not possible
- Use of face coverings
- Use engineering controls, administrative controls and personal protective equipment as required to reduce transmission risk
- Procedures to investigate and respond to COVID-19 cases in the workplace
- Provide COVID-19 training to employees
- Provide testing to employees who are exposed to a COVID-19 case, and in the case of multiple infections or a major outbreak, implement regular workplace testing for employees in the exposed work areas
- Exclusion of COVID-19 cases and exposed employees from the workplace until they are no longer an infection risk
- Maintain records of COVID-19 cases and report serious illnesses and multiple cases to Cal/OSHA and the local health department, as required

Cal/OSHA has posted a [Model COVID-19 Prevention Program](#) on its website for employers to use.

## Communication with Employees

**Q:** What does the ETS require employers to communicate to employees?

**A:** Requirements include:

- 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, such as heart disease, diabetes, various lung diseases and others (this is an obligation to communicate about existing procedures, not to create new ones, although reassigning employees with elevated COVID-19 risk factors to jobs with less exposure risk is encouraged and may be required under federal and state disability laws)
- How the employee can obtain testing for COVID-19, such as through the employer's workplace-based testing program, or through the local health department, a health plan, or at a community testing center
- Notice of potential exposure to COVID-19
- Cleaning and disinfection protocols
- How to participate in workplace hazard identification and evaluation

## Identifying, Evaluating and Correcting COVID-19 Hazards

**Q:** What must an employer do to identify, evaluate and correct workplace hazards?

**A:** Identifying, evaluating and correcting workplace hazards includes:

- Developing and implementing a process for screening employees for and responding to employees with COVID-19 symptoms
- Reviewing state and local guidance and orders on hazard prevention, [including industry-specific guidance found on Cal/OSHA's website](#) or at [Covid19.ca.gov](#)
- Reviewing existing practices for controlling COVID-19
- Conducting a site-specific evaluation of where COVID-19 transmission could occur, including interactions between employees and any other persons, and places employees may congregate or interact with members of the public
- Allowing employees or employees' authorized representatives to participate in hazard identification and evaluation
- Ensuring a process is in place to immediately address COVID-19 cases
- Conducting periodic inspections of the workplace to ensure compliance with the ETS and check for new hazards
- Implementing procedures to correct identified hazards

**Q:** How does an employer allow employees or employees' representatives to participate in hazard identification or evaluation?

**A:** The employer has flexibility in how it allows worker participation in hazard identification and evaluation. The rule does not explicitly require employee participation, but employers must allow it. Cal/OSHA encourages the participation of employees and employees' authorized representatives in hazard identification and evaluation.

## Physical Distancing, Face Coverings and Other Controls

**Q:** What are the physical distancing requirements of the ETS?

**A:** An employer must ensure that employees maintain at least six feet of distance from other persons unless it is not possible, in which case employees should be as far from others as possible. Momentary contact closer than 6 feet while in movement, such as in a hallway or aisle, would not be considered a violation. An employer must be prepared to demonstrate to Cal/OSHA why physical distancing of at least six feet is not possible.

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.

**Q:** What are the face covering requirements of the ETS?

**A:** The ETS requires employers to provide employees with face coverings (or reimburse employees for the cost) and ensure they are worn over the nose and mouth when indoors, and when outdoors and within 6 feet of another. Exceptions include: when an employee is alone in a room, when eating or drinking, when using a respirator or other respiratory protection, when an employee cannot use a face covering due to a medical or mental condition; if hearing impaired or

communicating with a hearing impaired person; or when specific work tasks cannot be performed with a face covering. Other measures to protect against COVID-19 infection must be implemented when face coverings cannot be used.

**Q:** What engineering controls, administrative controls and personal protective equipment must an employer implement?

**A:** Requirements include:

- Engineering controls
  - Install cleanable solid partitions that reduce the risk of aerosol transmission between fixed work locations where it is not possible to physically distance (such as Plexiglas barriers)
  - Maximize the amount of outside air to the extent feasible, unless there is poor outside air quality (an AQI of 100 or higher for any pollutant) or some other hazard to employees such as excessive heat or cold
- Administrative controls
  - Implement effective cleaning procedures of commonly touched surfaces, such as doorknobs, elevator buttons, equipment, tools, handrails, handles, controls, bathroom surfaces, and steering wheels
  - Inform employees and employees' authorized representatives of cleaning and disinfection protocols and planned frequency and scope of cleaning
  - Minimize to the extent feasible the sharing of tools, equipment and vehicles
  - If tools, equipment and vehicles must be shared, disinfect between users
  - Clean areas where a COVID-19 case has been during the "high risk period", as defined in these FAQs
  - Provide for, encourage and allow time for frequent hand washing, and provide hand sanitizer
- Personal protective equipment (PPE)
  - Evaluate the need for PPE, including but not limited to gloves, eye protection and respiratory protection as required by Cal/OSHA standards
  - Provide eye and respiratory protection for employees exposed to procedures that aerosolize saliva or other potentially infectious materials, such as some dental procedures
  - Prohibit the sharing of PPE

## Training

**Q:** What training must an employer provide employees under the ETS?

**A:** Employee training must cover:

- Employer policies and procedures to protect employees from COVID-19 hazards
- COVID-19 related benefit information, from either the employer or from federal, state or local government, that may be available to employees impacted by COVID-19. Information on COVID-19 benefits such as paid sick leave and workers' compensation benefits is posted on the [Department of Industrial Relations' Coronavirus Resources](#) webpage.

- 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 show no symptoms
- The importance of physical distancing and wearing face coverings
- 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
- The importance of frequent hand washing for at least 20 seconds and use of hand sanitizer when handwashing facilities are not available
- Proper use of face coverings, and the fact that they are not respiratory protection
- The symptoms of COVID-19 and the importance of not coming to work and getting tested if an employee has symptoms

Cal/OSHA will provide training resources on its website for employers to use to supplement site-specific training to comply with the ETS.

## Addressing COVID-19 Cases in the Workplace

**Q:** What must an employer do to investigate and respond to a COVID-19 case?

**A:** Investigating and responding to a COVID-19 case in the workplace includes the following:

- Determining when the COVID-19 case was last in the workplace, and if possible the date of testing and onset of symptoms
- Determining which employees may have been exposed to COVID-19
- Notifying employees of any potential exposures within one business day (and notifying any other employer who has potentially exposed employees in the workplace)
- Offer testing to potentially exposed employees at no cost and during working hours
- Investigate the exposure, whether workplace conditions could have contributed to the risk of exposure, and what corrections would reduce exposure

**Q:** What are the testing requirements in the ETS?

**A:** An employer's testing obligations are the following:

- Inform all employees on how they can obtain testing. This could be through the employer, local health department, a health plan, or at a community testing center. The only obligation to all employees is to provide information.
- Offer testing to an employee at no cost and during working hours in the event of a potential COVID-19 work-related exposure.
- Provide periodic (at least weekly or twice per week depending on the magnitude of the outbreak) COVID-19 testing to all employees in an "exposed workplace" during an outbreak.
- Testing must be provided in a manner that ensures employee confidentiality.

**Q:** In a non-outbreak setting, how does an employer determine which employees may have had a COVID-19 exposure?

**A:** Employers must: determine which if any employee was within 6 feet of a COVID-19 case for a cumulative total of 15 minutes within any 24-hour period during the COVID-19 case’s “high risk exposure period.” The high-risk exposure period is:

- For COVID-19 cases 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.
- 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.

**Q:** In a non-outbreak setting, what are employers required to do when they learn that one or more of their employees had a COVID-19 exposure at the workplace?

**A:** Employers must:

- Notify all employees and employees’ authorized representatives who may have had COVID-19 exposure within one business day in a manner that does not reveal the COVID-19 case’s personal identifying information
- Offer testing at no cost to any employee potentially exposed to COVID-19 in the workplace, and provide applicable benefit information. The time an employee spends being tested is considered compensable hours worked.
- Exclude from the workplace employees who test positive for COVID-19 and employees with COVID-19 exposure, and follow the requirements for preserving their pay and benefits
- Follow the return to work criteria for returning excluded employees to work
- Investigate the exposure and address hazards
- Follow all recordkeeping and reporting requirements for employee COVID-19 cases.

**Q:** In an outbreak (three or more COVID-19 cases in an “exposed workplace” within a 14-day period or identified as an outbreak by a local health department), what are an employer’s requirements?

**A:** In addition to the requirements for non-outbreak settings, an employer must:

- Immediately provide testing to all employees in the exposed workplace and exclude positive cases and exposures from work; repeat the testing one week later; and
- Continue testing employees at least weekly until the workplace no longer qualifies as an outbreak.

**Q:** What are an employer’s requirements in a major outbreak (20 or more COVID-19 cases in an “exposed workplace” within a 30-day period)?

**A:** In addition to the requirements for non-outbreak settings, an employer must:

- Provide testing to all employees in the exposed workplace at least twice weekly and exclude positive cases and exposures until there are no new cases detected for a 14-day period;
- Implement ventilation changes to mechanical ventilation systems including increasing filtration efficiency to at least MERV-13, or the highest efficiency compatible with the ventilation system.
- Evaluate whether HEPA air filtration units are needed in poorly ventilated areas;

- Determine the need for a respiratory protection program or changes to an existing respiratory protection program under section 5144 to address COVID-19 hazards; and
- Consider halting all or part of operations to control the virus.

**Q:** What is an “exposed workplace” and how should an employer determine which work areas are included?

**A:** An exposed workplace is a work location, working area, or common area 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. If, within 14 days, three COVID-19 cases share the same “exposed workplace,” then the Multiple COVID-19 Infections and COVID-19 Outbreaks standard (section [3205.1](#)) applies and additional testing will be required. When determining which areas constitute a single “exposed workplace” for purposes of enforcing testing requirements, 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,” so they may focus on locations where transmission is more likely.

**Q:** Does the “exposed workplace” mean the entire workplace? Does this change after January 1, 2021 when AB 685 goes into effect?

**A:** No, the “exposed workplace” includes only the areas of the building where the COVID-19 cases were present during the “high-risk exposure period.” This will not change after January 1, 2021.

**Q:** Is the testing requirement for outbreaks triggered by three or more cases in an entire building?

**A:** No, the testing requirement is triggered by three or more cases in a 14-day period present in the same “exposed workplace” during the “high-risk exposure period.” For other areas of the workplace, follow the requirements for employees who are exposed to COVID-19 cases.

**Q:** Is the “three or more cases” outbreak requirement limited to employee cases, or do cases involving anyone that has been in the workplace count towards the requirement?

**A:** Any confirmed COVID-19 case who has been in the workplace during the high-risk exposure period counts towards the three-case threshold.

**Q:** When must an employer exclude employees from work?

**A:** Employers must exclude from work employees who (1) test positive for COVID-19, or (2) have had COVID-19 exposure from the workplace.

**Q:** What are the criteria for a COVID-19 case to return to work?

**A:** A COVID-19 case may return to work when any of the following occur:

- For employees with symptoms all of these conditions must be met:
  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
- For employees without symptoms, at least 10 days have passed since the COVID-19 case’s first positive test
- If a licensed health care professional determines the person is not/is no longer a COVID-19 case, in accordance with California Department of Public Health (CDPH) or local health department recommendations

**Q:** What is the criteria for an employee exposed to a COVID-19 case in the workplace to return to work?

**A:** Employees with COVID-19 exposure may return to the workplace 14 days after the last known COVID-19 exposure.

**Q:** Is a negative test required for an employee to return to work?

**A:** No, the ETS does not require an employee to have a negative test to return to work. The criteria for returning to work are listed above.

**Q:** Must an employer pay an employee while the employee is excluded from work?

**A:** If the employee is able and available to work, the employer must continue to provide the employee's pay and benefits. An employer may require the employee to exhaust paid sick leave benefits before providing exclusion pay, and may offset payments by the amount an employee receives in other benefit payments. (Please refer to the [Labor Commissioner's COVID-19 Guidance and Resources](#) for information on paid sick leave requirements.). These obligations do not apply if an employer establishes the employee's exposure was not work-related.

## Recordkeeping and reporting

**Q:** What reporting and recordkeeping requirements are in the ETS?

**A:** An employer's reporting and recordkeeping requirements include the following:

- Following state and local health department reporting requirements.
- Contacting the local health department when there are three or more COVID-19 cases in the workplace within a 14-day period.
- Provide the following information:
  - The total number of COVID-19 cases.
  - 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
  - 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.
- Reporting serious occupational illnesses to Cal/OSHA, consistent with existing regulations.
- Maintaining records required by [8 CCR section 3203\(b\)](#), which include inspection records, documentation of hazard corrections, and training records (requirements vary by employer size).
- Making the written COVID-19 Prevention Program available upon request to employees and employees' authorized representatives.
- Recording and tracking 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. The information shall be made available to employees, authorized employee representatives, or as otherwise required by law, with personal identifying information removed. This does not prevent employees or their representatives from obtaining an employer's Log of Work-Related Injuries and Illnesses or other information as allowed by law.

## Advisory Committees and Possible Changes to the ETS

**Q:** When is the advisory committee scheduled to meet?

**A:** Cal/OSHA intends to hold a stakeholder meeting in December to explain the rule, answer questions and give interested parties an opportunity to provide feedback on the rule. An advisory committee meeting will be scheduled soon after that. The Occupational Safety and Health Standards Board (OSHSB) has formally requested that Cal/OSHA report the results of this advisory process to the Board within four months.

## Additional Resources

**Q:** What additional resources are available for employers and workers to understand the rule and comply?

**A:** Cal/OSHA has a number of resources in place and in development to assist with compliance with the ETS:

- These FAQs will be expanded on an ongoing basis to assist stakeholders in understanding the ETS.
- A stakeholder meeting will be held in December to explain the rule and answer questions.
- The Consultation Branch will be available to answer employer questions about the ETS.
- Cal/OSHA is developing training on the ETS that it will provide in a webinar format.
- Cal/OSHA has developed a Model Program to assist employers in developing a [COVID-19 Prevention Program](#).
- Materials will continue to be posted and updated on [Cal/OSHA's COVID-19 webpage](#).
- [COVID-19 Sick Leave and Employment Law](#)
- For questions on paid sick leave, retaliation protections, filing a wage claim, or retaliation complaint, call 833-LCO-INFO (833-526-4636)
- [COVID-19 Workplace Safety and Health Information](#)
- You can file a [workplace safety and health complaint with Cal/OSHA online](#), or by telephone at the [district office closest to you](#).
- [COVID-19 Resources for Workers' Compensation](#)
- Call 1-800-736-7401 for recorded information on workers' compensation benefits from Information and Assistance staff 24 hours a day, or [contact a local Division of Workers' Compensation office](#) during business hours to reach a live person.