

## SUMMARY OF DIFFERENCES BETWEEN CURRENT COVID-19 Emergency Temporary Standards, 3205 THROUGH 3205.4, AND CURRENT DRAFT PROPOSAL

- The current draft proposal would create a COVID-19 standard that would be subject to renewal or expiration after two years. It would replace the current Emergency Temporary Standards (ETS). The proposed language significantly streamlines the existing ETS.
- **Sunset date** added for all sections. The rule would expire in two years, subject to renewal and/or amendment based on conditions at the time.
- **Definitions**
  - “Infectious period” used in lieu of “high risk exposure period” to conform to use in Labor Code and by CDPH.
  - The definitions of “Close contact” and “infectious period” are subject to change if CDPH adopts new definitions.
- **No separate written COVID-19 Prevention Program** – instead, employers must address COVID-19 through their Injury and Illness Prevention Program (IIPP). The proposal includes specific requirements about how employers must address COVID-19 hazards within the context of section 3203, the IIPP regulation.
  - Exclusion of COVID-19 cases would be governed by CDPH requirements if different from the periods in the rule.
  - Exclusion of people with close contacts would governed by CDPH requirements or, if none, employers must develop an effective policy to exclude them while potentially infectious, looking to CDPH recommendations.
  - Specific training requirements removed; effective training would be required under section 3203 instead. Training documentation for COVID-19 would be required without exception for employers with fewer than 10 employees.
- **Testing of close contacts** – Employers must provide testing to all employees with a close contact, regardless of vaccination status, except for recently recovered COVID-19 cases without symptoms. Under the current ETS, employers do not have to provide testing to fully vaccinated employees.
- **Testing of symptomatic, unvaccinated employees removed.**
- **No provision for exclusion pay**, though excluded employees must still be given information about benefits. This would be left for the Legislature to address on a permanent basis.
- **Simplified notice requirements**, though employers must still comply with Labor Code section 6409.6 (AB 685) as applicable.
- **When employee are without face coverings indoors** because of the applicability of certain exceptions, employers must take effective action to address the potential hazard. The current ETS mandates a six-foot distance or specified testing.

- **Respirators** must be provided upon request to employees who have been identified by a physical or other health care professional as being at increased risk of severe illness. The current ETS required that respirators be provided upon request to employees who are not fully vaccinated.
- **Ventilation**
  - Indoors, employers must review guidance, evaluate whether ventilation is adequate to reduce transmission, and implement changes as necessary, with some specific options listed. In vehicles, employers shall maximize the supply of outside air unless doing so causes a hazard or exposes employees to inclement weather.
  - Reference to section 5142 and 5143 added. These standards generally require operation of mechanical ventilation during operating hours and use of ventilation to address hazards.
- **Handwashing, cleaning, and disinfection requirements removed.**
- **Order to Take Special Action** permitted to protect employees against COVID-19 hazards. This consolidates subsections in different portions of the current ETS.
- **Outbreaks.**
  - Face coverings required for all employees in outbreaks, regardless of vaccination status.
  - Testing exemption for the fully vaccinated removed.
  - “Major outbreaks” section included as a subsection of the general outbreak section, 5141.1.
  - If 20 or more employee COVID-cases in an “exposed group” occur within 30 days (a “major outbreak” under the current ETS), employers must provide respirators for voluntary use and train on their use.
- **Employee housing.**
  - Housing in which all residents are a part of the same usual household is exempted from the regulation.
  - If all residents are fully vaccinated, only the quarantine and isolation requirements apply.
- **Employee transportation.**
  - Applies to travel to and from work, in the course and scope of employment.
  - Regulation significantly simplified; the regulation only specifies that section 3205 applies and includes a requirement, similar to the current ETS, regarding assignment of transportation.
  - No exemption for vehicles in which everyone is fully vaccinated, although those people would still be exempt from certain requirements when specified by section 3205.

Please note that other requirements are the same as, or similar to, requirements in the existing ETS but have been relocated within the draft text.