



## UPDATE - COVID-19 Prevention – Non-Emergency Regulation

### What Employers Need to Know

December 15, 2022

On December 15, 2022, the Occupational Safety and Health Standards Board voted to adopt non-emergency COVID-19 Prevention regulations. These regulations will take effect once they are approved by the Office of Administrative Law (OAL) in the month of January 2023 and will remain in effect for two years after the effective date, except for the recordkeeping subsections, which will remain in effect for three years. These regulations include some of the same requirements found in the COVID-19 Prevention Emergency Temporary Standards (ETS), plus new provisions aimed at making it easier for employers to provide consistent protections to workers and allow for flexibility if changes are made to CDPH guidance in the future.

**Note:** These regulations apply to most workers in California who are not covered by the [Aerosol Transmissible Diseases standard](#).

#### Important requirements from the ETS that are also part of the COVID-19 Prevention regulations include:

- Employers must provide face coverings and ensure they are worn by employees when CDPH requires their use.
  - Employers must review [CDPH Guidance for the Use of Face Masks](#) to learn when employees must wear face coverings.
  - **Note:** Employees still have the right to wear face coverings at work and to request respirators from the employer when working indoors and during outbreaks.
- Employers must report information about employee deaths, serious injuries, and serious occupational illnesses to Cal/OSHA, consistent with existing regulations.
- Employers must make COVID-19 testing available at no cost and during paid time to employees following a close contact.
- Employers must exclude COVID-19 cases from the workplace until they are no longer an infection risk and implement policies to prevent transmission after close contact.
- Employers must review CDPH and Cal/OSHA guidance regarding ventilation, including [CDPH and Cal/OSHA Interim Guidance for Ventilation, Filtration, and Air Quality in Indoor Environments](#). Employers must also develop, implement, and maintain effective methods to prevent COVID-19 transmission by improving ventilation.

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## Important changes to the COVID-19 Prevention regulations include:

- Employers are no longer required to maintain a standalone COVID-19 Prevention Plan. Instead, employers must now address COVID-19 as a workplace hazard under the requirements found in [section 3203 \(Injury and Illness Prevention Program, IIPP\)](#), and include their COVID-19 procedures to prevent this health hazard in their written IIPP or in a separate document.
  - Employers must do the following:
    - Provide effective COVID-19 hazard prevention training to employees.
    - Provide face coverings when required by CDPH and provide respirators upon request.
    - Identify COVID-19 health hazards and develop methods to prevent transmission in the workplace.
    - Investigate and respond to COVID-19 cases and certain employees after close contact.
    - Make testing available at no cost to employees, including to all employees in the exposed group during an outbreak or a major outbreak.
    - Notify affected employees of COVID-19 cases in the workplace.
    - Maintain records of COVID-19 cases and immediately report serious illnesses to Cal/OSHA and to the local health department when required.
- Employers must now report major outbreaks to Cal/OSHA.
- The COVID-19 Prevention regulations do not require employers to pay employees while they are excluded from work. Instead, the regulations require employers to provide employees with information regarding COVID-19 related benefits they may be entitled to under federal, state, or local laws; their employer's leave policies; or leave guaranteed by contract.

## Important changes to definitions

- “Close contact” is now defined by looking at the size of the workplace in which the exposure takes place. For indoor airspaces of 400,000 or fewer cubic feet, “close contact” is now defined as sharing the same indoor airspace with a COVID-19 case for a cumulative total of 15 minutes or more over a 24-hour period during the COVID-19 case's infectious period. For indoor airspaces of greater than 400,000 cubic feet, “close contact” is defined as being within six feet of a COVID-19 case for a cumulative total of 15 minutes or more over a 24-hour period during the COVID-19 case's infectious period.
- “Exposed group” was clarified to include employer-provided transportation and employees residing within employer-provided housing that are covered by the COVID-19 Prevention standards.

This guidance is an overview, for full requirements see Title 8 sections [3205](#), [3205.1](#), [3205.2](#), and [3205.3](#)