

Cal/OSHA Standards Board's COVID-19 ETS Proposal Provisions

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On September 15, 2022, the California Occupational Safety and Health Standards Board will continue the long and arduous journey to establish COVID-19 safety measures in the workplace. Since the California Division of Occupational Safety and Health's (Cal/OSHA) [initial ETS](#) took effect in November 2020, the Standards Board has addressed the evolving workplace safety challenges with a series of updates. Now, the Standards Board will consider whether to adopt, amend, or repeal certain sections of the ETS. Any new regulation would go into effect on January 1, 2023, after the present regulation [sunsets](#) on December 31, 2022.

During the public hearing on September 15, 2022, the Standards Board will decide whether to make changes to the ETS. Members of the public are invited to submit written comments prior to the meeting. The Standards Board proposed the following updates, changes, and improvements to the California COVID-19 regulation.

- The Standards Board revised the term “close contact” to reflect the California Department of Public Health’s (CDPH) earlier revision such that it would now mean shared indoor space for a cumulative 15 minutes or more over a 24-hour period during the infectious period.
- The term “exposed group” expands the definition of common area to include employer-provided transportation or employer-provided housing.
- Subsection (c) states that COVID-19 is a hazard that should be addressed under Section 3203, the regulation governing an employer’s Injury and Illness Prevention Program. Employers have two options: (1) incorporate their written COVID-19 procedures into their written Injury and Illness Prevention Plan or (2) adopt a stand-alone document.
- The subsection also sets forth that employees are considered to be potentially exposed to COVID-19 hazards “when near other persons” and that the employer “shall treat all persons as potentially infectious.” It further requires employers to review applicable orders and

guidance “from the State of California and the local health department.”

- Employers are to continue to make COVID-19 tests available at no cost during paid time to all close contacts.
- The sections on outbreaks (3205.1) and major outbreaks (3205.2) were consolidated into the revised Section 3205.1. Subsection (c) requires that employees in the exposed group “wear face coverings when indoors, or when outdoors and less than six feet from another person.”

Key Takeaways

The draft regulation defines COVID-19 as a workplace hazard for which an employer would be required to “establish, implement, and maintain an effective Illness and Injury Prevention Program.” If adopted, employers will be required to continue to update their COVID-19 Prevention Plan for 2023 and onward.

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