

# CalOSHA COVID-19 Emergency Regulation

November 23, 2020

On November 19, the CalOSHA Standards Board unanimously adopted an emergency regulation on workplace safety regarding COVID-19. The emergency regulation is a mix of the requirements found in existing CalOSHA guidelines; incorporation of definitions and requirements from AB 685 (Reyes) passed by the Legislature this year; and brand-new employer mandates.

The following is a summary of the regulation as approved by the CalOSHA Standards Board on November 19.

The regulation is comprised of 6 parts:

1. **Section 3205.COVID Prevention** - Applicable to all employers.
2. **Section 3205.1. Multiple COVID Infections and COVID-19 Outbreaks** - Applies to a place of employment that has been identified by a local health department as a location of a COVID-19 outbreak or when there are *three or more cases* within a 14-day period.
3. **Section 3205.2. Major COVID-19 Outbreaks** – Applies to a place of employment when there are *20 or more cases* in a workplace for a 14-day period.
4. **Section 3205.3. COVID-19 Prevention in Employer-Provided Housing**
5. **Section 3205.4 COVID-19 Prevention in Employer-Provided Transportation to and from Work.**

## Section 3205: COVID Prevention

1. COVID-19 Prevention Program - Employers must establish a written policy on preventing COVID-19 which may be integrated into the employer's Injury and Illness Program. The policy must include specific procedures for the following:
  - a. System for communicating
    - i. Must include information on testing and how workers can communicate their symptoms and workplace hazards.
  - b. Identification and Evaluation of COVID-19 hazards
  - c. Investigating and Responding to COVID-10 cases in the workplace
    - i. **The employer shall offer COVID-19 testing at no cost to employees during their normal working hours to all employees who had potential COVID-19 exposure in the workplace** and provide them with specified information.
    - ii. **Give notice** of potential COVID-19 exposure within one business day in a manner that does not reveal personal information.
  - d. Correction of COVID-19 hazards
  - e. Training and instruction
    - i. Shall include information about COVID-19 related benefits, such as emergency paid sick leave, and workers' compensation.
    - ii. Shall include the employer's policies and procedures.
    - iii. Shall include specified public health information about COVID-19 and recommended best practices for limiting the spread.
  - f. Physical Distancing

- i. All employees shall be separated from others by at least six feet, unless an employer can demonstrate that six feet of separation is not possible.
- g. Face Coverings
  - i. Employers shall provide face coverings and ensure employees wear those over the nose and mouth when indoors or when outdoors and less than six feet away from another person. Anyone not wearing a face covering or face shield should be at least six feet apart from all others unless the person is tested at least twice weekly for COVID-19.
- h. Engineering controls, administrative controls, and personal protective equipment
  - i. Reporting, recordkeeping, and access
    - i. Employers shall report to CalOSHA any COVID-19-related serious illness or death of an employee at work or in connection with work.
    - ii. Employers shall keep a record of all COVID-19 cases at the workplace
- j. Exclusion of COVID-19 cases
  - i. **Anyone who tests positive** for COVID-19 should be excluded from the workplace until the return to work requirements are satisfied.
  - ii. **Anyone exposed** to COVID-19 must be excluded from work for 14 days after their last known exposure.
  - iii. Employers must **continue and maintain an employee's earnings**, seniority and benefits through either sick leave benefits, public benefits or other means.
- k. Return to Work
  - i. Workers with COVID-19 shall not return to work until at least 10 days have passed since symptoms first appeared, and at least a day since a fever of 100.4 or higher has been resolved. A negative test is not required.
  - ii. Those who have tested positive for the coronavirus but have no symptoms shall not return to work until at least 10 days have passed since they first tested positive for COVID-19. A negative test is not required.

#### Section 3205.1. Multiple COVID-19 Infections and Outbreaks

Employers must comply with the above Section 3205 and the following:

- a. *Testing.* The employer shall provide testing to all employees at the exposed workplace except for employees not present during the outbreak. Testing procedures shall consist of:
  - i. Immediately upon becoming a location of an outbreak, all employees at the workplace must be tested immediately and then again one week later.
  - ii. Then, employers shall provide continuous testing of employees who remain the workplace at least once per week until they are no longer considered to be in an outbreak situation.
- b. *Notification.* Employer shall contact the local health department immediately but no longer than 48 hours after the employer knows of three or more cases.

#### Section 3205.2. Major COVID-19 Outbreaks

Employers must comply with the above Section 3205 and the following:

- a. *Testing.* The employer shall provide testing to all employees at the exposed workplace except for employees not present during the outbreak. Testing procedures shall consist of:

- Immediately upon becoming a location of an outbreak, all employees at the workplace must be tested immediately and then again one week later.
  - Then, employers shall provide continuous testing of employees who remain the workplace at least once per week until they are no longer considered to be in an outbreak situation.
- b. *Notification.* Employers shall contact the local health department immediately but no longer than 48 hours after the employer knows of three or more cases.

### Section 3205.3. COVID-19 Prevention in Employer-Provided Housing

This section applies to employer-provided housing, defined as:

- Any place or area of land, any portion of any housing accommodation, or property upon which housing accommodation is located consisting of: living quarters, dwelling boardinghouse, tent, bunkhouse, maintenance-of-way car, mobile home, manufactured home, recreational vehicle, travel trailer, or other housing accommodations.
- Labor Camp
- May be maintained in one or more buildings or sites (hotels and motels)
- Housing that is arranged for or provided by an employer, or any other person or entity in connection with the worker's employment, whether or not rent or fees are paid or collected.

With regard to employer-provided houses, employers shall:

- a. *Housing assignments.* Ensure that shared housing unit assignments are prioritized in the following order:
  - 1) Residents who usually maintain a household together outside of work, such as family members
  - 2) Residents who work in the same crew or work together at the same worksite
  - 3) Employees who do not usually maintain a common household, work crew, or work site – only when no other house alternatives are possible.
- b. *Physical distancing and controls.* Ensure the following:
  - i. Premises are of sufficient size to permit at least 6ft of physical distancing between residents in common areas
  - ii. Beds are spaced at least 6 feet apart in all directions and positioned to maximize distance between sleepers' heads. **Bunk beds shall not be used.**
  - iii. Maximize quality and quantity of outdoor air and increase filtration efficiency to highest level compatible with current system
- c. *Face Coverings.* Provide face coverings and provide information to all resident on when they should be used in accordance with state or local health officer orders to guidance.
- d. *Cleaning and disinfecting.*
  - i. Ensure that housing units, kitchens, bathrooms, and common areas are effectively cleaned and disinfected at least once a day
  - ii. Ensure unwashed drinking and eating utensils are not shared
- e. *Testing.* Establish, implement, and maintain testing policies and procedures for occupants who have been exposed to COVID-19
- f. *Isolation.* Effectively isolate COVID-19 cases and persons with exposure as follows:
  - 1) Isolate exposed persons as follows: Provide private bathroom, sleeping area, and cooking/eating facility

- 2) Isolate COVID-19 cases as follows: Housing COVID-19 cases only with other COVID-19 cases; provide bathroom, sleeping area, and cooking/eating facility that is not shared with non-COVID cases

#### Section 3205.4. COVID-19 Prevention in Employer-Provided Transportation to and from Work

This section applies to employee-provided transportation to and from work, defined as:

- Any transportation of an employee, during the course and scope of employment, provided, arranged for, or secured by an employer including ride-share vans or shuttle vehicles, car-pools, and private charter buses, regardless of the travel distance or duration involved.
- The regulation does not apply if the driver and all passengers are from the same household outside of work.

With regard to employer-provided transportation, employers shall:

- a. *Transportation assignment.* Prioritize shared transportation assignments as follows:
  - 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.
  - 3) Employees who do not share the same household, work crew or worksite shall be transported in the same vehicle only when no other transportation alternatives are possible
- b. *Physical distancing and face coverings.* Employer must ensure the following:
  - 1) Physical distancing and face coverings while awaiting transportation
  - 2) Vehicle operator and passengers are separated by at least 3 feet
  - 3) Vehicle operator and passengers must wear a mask in the vehicle
- c. *Screening.* Employers shall:
  - 1) Have a process for screening passengers prior to boarding
- d. *Cleaning and disinfection.* Employer must ensure:
  - 1) All high-contact surfaces used by passengers are cleaned prior to every trip
  - 2) All high-contact surfaces used by drivers are cleaned between drivers
  - 3) Provide cleaning supplies
- e. *Ventilation.* Vehicle windows be kept open and the ventilation system set to maximize outdoor air and not set to recirculate air. Windows do not have to be kept open if:
  - 1) vehicle has functioning air conditioning in use and the outside temperature is greater than 90 degrees Fahrenheit
  - 2) vehicle has functioning heating in use and the outside temperature is less than 60 degrees Fahrenheit
  - 3) protection is needed from rain or snow
  - 4) vehicle has a cabin air filter in use and the U.S. EPA Air Quality Index for any pollutant is greater than 100