

COVID-19 Emergency Regulation General Industry Safety Orders, Section 3205

On November 19, 2020, the Cal/OSHA Standards Board, despite objections from employers, trade associations and business groups, approved an *emergency regulation* pertaining to the policies and protocols employers will be required to comply with around COVID-19 prevention. The regulation was drafted through the emergency hearing process. Unlike past emergency regulations, no advisory board was created to allow stakeholders to provide feedback/comments about the requirements. It officially goes into effect on **NOVEMBER 30, 2020!!!**

The draft of the emergency regulation will be sent to the Office of Administrative Law (OAL) for review followed by five days during which stakeholders may submit comments. Once the OAL adopts the regulation, and it is expected that it will, it will be enforced by Cal/OSHA. (Cal/OSHA has indicated that it will publish guidance for employers sometime in the near future.) While most Districts have already implemented detailed COVID-19 prevention policies and procedures that already address many of the requirements in the new regulation, *if the OAL adopts the regulation*, we will have little time to create any *new protocols* necessary to comply. If you adopted the IIPP Addendum I sent out in May – you have the basics. There will be an update provided ASAP.

Summary: The regulation, Subchapter 7. General Industry Safety Orders, *Section 3205* includes requirements for:

- An effective method of communicating COVID-19 policies and procedures to employees
- Procedures for identifying COVID-19 hazards
- Investigating and responding to COVID-19 cases in the workplace
- Procedures for the correction of COVID-19 hazards
- Training and instruction (and the required training topics)
- Physical distancing tailored to the specific layout of the work area(s)
- Face coverings including how the employer will provide them and how the employer will enforce the face covering policy
- Engineering and administrative controls including an evaluation to consider additional controls to ensure that they are effective
- Personal protective equipment (PPE) including creation of a formal respiratory protection program if respirators such as the N95 are used
- Procedures for reporting, recordkeeping and access to records and the employer's procedure for notifying the local Health Department about an outbreak as well as procedures for recording work-related COVID-19 cases on the OSHA 300 Log and work-related hospitalizations and fatalities due to COVID-19

A new section, 3205.1 will be added and will include requirements for:

- Steps the employer will take to address *Multiple COVID-19 infections and COVID-19 outbreaks* (three or more COVID-19 cases within a 14-day period)
- COVID-19 testing (provided by the employer)
- Notifications to the local health department

A new section, 3205.2 will be added and will include requirements for:

- Steps the employer will take to address a potential *Major COVID-19 outbreak* (20 or more cases in a 30-day period)

A new section, 3205.3 will be added and will include requirements for:

- *COVID-19 Prevention in Employer-Provided Housing* requiring additional measures where an employer provides housing

A new section, 3205.4 will be added and will include requirements for:

- *COVID-19 Prevention in Employer-Provided Transportation* to and from Work requiring additional measures where an employer provides transportation