

# COVID-19 Prevention Non-Emergency Regulations

[español](#)

The COVID-19 Prevention non-emergency regulations (California Code of Regulations Title 8 sections 3205 through 3205.3) are in effect until February 3, 2025.

**February 3, 2023**

These FAQs include information on the COVID-19 Prevention regulations adopted on February 3, 2023.

- [Scope of Coverage](#)
- [Definitions](#)
- [COVID-19 Prevention Addressed in the Injury and Illness Prevention Program](#)
- [Determining Measures to Prevent COVID-19 Transmission; Identifying and Correcting COVID-19 Hazards](#)
- [Face Coverings and Personal Protective Equipment](#)
- [Ventilation](#)
- [Vaccines](#)
- [Training](#)
- [Addressing COVID-19 Cases in the Workplace](#)
- [Testing](#)
- [Outbreaks](#)
- [Benefits Available to Excluded Workers](#)
- [Waivers of Exclusion Requirements Based on Community Health and Safety](#)
- [Recordkeeping and Reporting](#)
- [Employer-Provided Housing](#)
- [CDPH Isolation and Quarantine](#)
- [Additional Resources](#)
- [FAQ Revision and Updates](#)

**Scope of Coverage** [Back to top](#)

---

1. **Q: Which employers must comply with the COVID-19 Prevention regulations?**

**A:** The COVID-19 Prevention regulations apply to all employers, employees, and places of employment with the following exceptions:

- Work locations where there is only one employee who does not have contact with other people.
- Employees who are working from home.
- Employees who are covered by the Aerosol Transmissible Diseases regulation ([Cal. Code Regs., tit. 8, § 5199](#)) (section 5199).
- Employees working from a location chosen by the employee that is not under the control of the employer (for instance, an employee teleworking from a café or a friend's home).

2. **Q: Do the COVID-19 Prevention regulations apply to employees who split their work time between home and the workplace?**

**A:** Yes. However, the COVID-19 Prevention regulations apply only when employees work at the workplace or are exposed at work, and not when they work from home.

3. **Q: Do the COVID-19 Prevention regulations apply to workplaces with only one employee who has brief contact with other persons?**

**A:** Yes, the COVID-19 Prevention regulations apply to such workplaces (unless they fall into one of the exceptions listed above). However, the measures that the employer must implement to comply with the COVID-19 Prevention regulations will reflect this type of limited exposure.

4. **Q: Do the COVID-19 Prevention regulations apply to employees who are working from remote locations other than their home?**

**A:** No, the regulations do not apply to employees an employer assigns to telework but who choose to work elsewhere, such as at a hotel or rental property. The regulation on employer-provided housing (Cal. Code Regs., tit. 8, § 3205.2) applies when a person is working from a hotel arranged for or provided by the employer. However, the rule does not apply to business travel by employees unless they are sharing a room or suite.

5. **Q: Does the COVID-19 Prevention regulations apply to any facility that is subject to the Aerosol Transmissible Diseases (ATD) standard?**

**A:** The COVID-19 Prevention regulations apply to employees at these facilities who are not identified in the employer's Aerosol Transmissible Diseases Exposure Control Plan, as required under California's Aerosol Transmissible Diseases standard (Cal. Code Regs., tit. 8, § 5199), as having occupational exposure to aerosol transmissible diseases (ATDs), such as administrative employees who work only in an office environment separated from patient care facilities.

6. **Q: Can an employee in a single workplace be subject to both the COVID-19 Prevention regulations and section 5199 at different times?**

**A:** No. In a facility or operation that is covered by section 5199, employees with occupational exposure to ATDs are covered by the requirements of section 5199, and not the COVID-19 Prevention regulations. This is true even when an employee who has occupational exposure performs tasks that do not include exposure to ATDs, for example, when a hospital nurse who performs patient care spends time in the hospital's human resources office.

7. **Q: Can an employer at a workplace covered by section 5199 deem all employees on site to have occupational exposure to COVID-19 and exempt them from the COVID-19 Prevention regulations?**

**A:** If the employer provides all employees with protections under its ATD Exposure Control Plan and has incorporated those employees into the plan in accordance with section 5199 because they have an occupational exposure to COVID-19, then those employees would not be subject to the COVID-19 Prevention regulations.

8. **Q: Can a firefighter be subject to both the COVID-19 Prevention regulations and section 5199 at different times?**

**A:** No, a firefighter cannot be subject to both the COVID-19 Prevention regulations and section 5199. However, a firefighter must be protected from COVID-19 under one of the standards.

If the firefighter performs emergency medical services (EMS) duties such as those of a paramedic, emergency medical technician or first responder, or if the firefighter otherwise provides support in the field to those performing EMS duties, the firefighter has occupational exposure to ATDs as defined in section 5199 and is therefore covered by section 5199, not the COVID-19 Prevention regulations. This is true even when that firefighter performs tasks that do not necessarily involve potential exposure to ATDs, for example, responding to non-EMS calls and otherwise traveling in fire department vehicles; performing routine tasks, such as training and maintenance; and engaging in the normal routines of a fire station, including meals and sleeping.

Section 5199(e) requires employers to use feasible engineering and work practice controls to minimize employee exposures to aerosol transmissible pathogens. This includes implementing COVID-19 protections in fire department vehicles and facilities, such as improving ventilation, physical distancing and mask use in accordance with CDPH requirements, including in facility sleeping quarters and other common areas.

Under section 5199(h)(6)-(9), covered employers must implement specific follow-up requirements in the event that an employee is exposed to an aerosol transmissible pathogen. This includes fire departments when firefighters are potentially exposed to COVID-19, regardless of the source of the exposure.

If a firefighter is not identified as having occupational exposures to ATDs in the employer's ATD Prevention Plan or if a firefighter is not protected under that plan, the firefighter would be subject to the COVID-19 Prevention regulations.

9. **Q: Can employers follow the CDPH's "All Facilities Letter 21-08.8," (AFL) for employees covered by the COVID-19 Prevention regulations?**

**A:** No, the "All Facilities Letter 21-08.8" applies only to employees listed in the AFL. Those employees are covered by section 5199, not the COVID-19 Prevention regulations, as explained above.

## Definitions [Back to top](#)

---

1. **Q: How do I determine what is a “close contact” as defined in the COVID-19 Prevention regulations?**

**A:** The regulations define “close contact” as follows:

- A. In indoor spaces of 400,000 or fewer cubic feet per floor, a close contact is defined as sharing the same indoor airspace as a COVID-19 case for a cumulative total of 15 minutes or more over a 24-hour period during a COVID-19 case's infectious period.
- B. In large indoor spaces greater than 400,000 cubic feet per floor, a close contact is defined as being within 6 feet of the 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.
- C. Offices, suites, rooms, waiting areas, break or eating areas, bathrooms or other spaces that are separated by floor-to-ceiling walls are considered distinct indoor airspaces.

Determining who is a close contact is dependent on the size of an employer's indoor space. For indoor spaces of 400,000 cubic feet or fewer, a close contact is someone who shares 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 more than 400,000 cubic feet, a close contact is someone who is 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.

2. **Q: How does an employer determine the cubic feet (volume) of an indoor space?**

**A:** Multiply the square footage by the average ceiling height. Or, follow the general formula for calculating the cubic feet of an indoor space: **Length** of space X (multiplied by) **Width** of space X (multiplied by) **Height** of space = **Volume of space**

Examples:

- a. A store is 60 feet long and 40 feet wide, and has a 24 foot high ceiling. The cubic feet of the indoor space of the store is: 60 feet X 40 feet X 24 feet = 57,600 cubic feet

- b. A warehouse is 200 feet long and 150 feet wide, and has a 24 foot high ceiling. The cubic feet of the indoor space of the warehouse is: 200 feet X 150 feet X 24 feet = 720,000 cubic feet

Note that rooms with floor to ceiling walls are not to be counted as part of any larger indoor space.

## COVID-19 Prevention Addressed in the Injury and Illness Prevention Program [Back to top](#)

---

1. **Q: What are the main requirements of the COVID-19 Prevention regulations?**

**A:** To comply with the ETS, an employer must develop a written COVID-19 Prevention Program or ensure its elements are included in an existing [Injury and Illness Prevention Program](#) (IIPP). The employer must do the following in accordance with their written program:

- Determine measures to prevent COVID-19 transmission and identify and correct COVID-19 hazards.
- Provide COVID-19 training to employees.
- Investigate and respond to COVID-19 cases in the workplace.
  - Exclude from the workplace COVID-19 cases until they are no longer an infection risk and meet return to work criteria, and implement effective policies to prevent transmission after close contact. For more information on this topic, please refer to the section in this FAQ on [CDPH's Isolation and Quarantine Guidance](#).
  - Make testing available at no cost to employees:
    - Who had a "close contact" (as defined in the COVID-19 Prevention regulations) with a person with COVID-19 except for recently returned employee COVID-19 cases ("returned cases") without symptoms.
    - During an outbreak:
      - Make testing available weekly to all employees in the exposed group.
      - Test employees after close contact or exclude them from the workplace until the return-to-work requirements for COVID-19 cases are met. Please see the [CDPH Isolation & Quarantine section of this FAQ](#) for information on when COVID-19 cases may return to work.
    - During a major outbreak:

- Test employees in the exposed group or exclude them from the workplace until the return-to-work requirements for COVID-19 cases are met. Please see the [CDPH Isolation & Quarantine section of this FAQ](#) for information on when COVID-19 cases may return to work.
- Testing is required twice a week for all employees in the exposed group.
  - Notify employees of COVID-19 cases in the workplace.
- Require and provide face coverings and respirators in the manner and in the circumstances specified in the COVID-19 Prevention regulations.
- Advise employees they can wear face coverings at work regardless of their vaccination status, and that retaliation by the employer is illegal.
- Improve indoor ventilation and air filtration to prevent COVID-19 transmission.
- Require respiratory protection during aerosolizing procedures.
- Keep records of COVID-19 cases at the workplace.
- Maintain records of COVID-19 cases, and report serious illnesses and outbreaks to Cal/OSHA and to the local health department when required.

Cal/OSHA has posted [Model COVID-19 Prevention policies and procedures](#) on its website for employers to use.

<sup>1</sup> Recently recovered from COVID-19 means a period of 30 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, for a period of 30 days after the first positive test.

## Determining Measures to Prevent COVID-19 Transmission; Identifying and Correcting COVID-19 Hazards [Back to top](#)

---

### 1. **Q: What must an employer do to determine measures to prevent COVID-19 transmission and identify and correct COVID-19 hazards?**

**A:** To determine what measures to take to prevent COVID-19 transmission and identify and correct COVID-19 hazards, an employer must:

- Review applicable orders and guidance related to COVID-19 from the State of California and the local health department with jurisdiction over the workplace; and
- Treat COVID-19 as an airborne infectious disease.

Measures to prevent transmission include remote work, physical distancing, reducing the density of people indoors, moving indoor tasks outdoors, implementing separate shifts and/or break times, restricting access to the work area, and other prevention measures.

## Face Coverings and Personal Protective Equipment [Back to top](#)

---

1. **Q: What if an employee is not required to wear a face covering under the COVID-19 Prevention regulations, but wishes to do so?**

**A:** Employers must allow employees to wear face coverings if they voluntarily choose to do so, unless it would create a safety hazard, such as interfering with the safe operation of equipment.

2. **Q: May an employer require an employee to wear a face covering at work even if not required by CDPH guidance or the COVID-19 Prevention regulations?**

**A:** Yes, employers can have policies that are more protective than those required by the COVID-19 Prevention regulations. However, an accommodation must be made for those who cannot wear face coverings due to a medical or mental health condition or disability, who are hearing-impaired or communicating with a hearing-impaired person, or when an employee performs specific tasks which cannot be performed with a face covering.

3. **Q: What are the face covering requirements in the COVID-19 Prevention regulations?**

**A:** Employers must provide face coverings and ensure they are worn when required by orders from the CDPH. [CDPH](#) requires that all workers in [healthcare settings, long-term care settings, and adult and senior care facilities](#) wear face coverings indoors.

In [homeless shelters, emergency centers, cooling and heating centers](#), and state and local [correctional facilities and detention centers](#), the following CDC Community Levels determine the masking requirements:

- When the [COVID-19 Community Level](#) is low, masking may be optional:
  - Only in **non-clinical areas** (such as in housing units, communal dining areas, visitation areas, and in administrative areas where only staff may have access), **and**
  - When there have been no [outbreaks](#) (defined as three suspected, probable, or confirmed COVID-19 cases within a 14-day period among epidemiologically linked residents and/or staff) in the entire facility or within separated, closed sub units that do not allow for mixing of those residents with the general population.

Employers are required to provide face coverings upon request to all employees, and should make surgical masks or higher-filtration masks (e.g., N95s, KN95s, KF94s) with good fit available at all times.

- When the [COVID-19 Community Level](#) is medium or high, facilities must maintain or reinstate universal masking requirements for all staff and residents, regardless of if there are no outbreaks within the facility.

Universal masking of all staff and residents, regardless of vaccination status and Community Level, is required in all clinical areas (or when any healthcare is being delivered), including isolation and quarantine areas, or any other areas that are covered by other specified high-risk settings.

Additionally, all employers must:

- Provide and ensure use of face coverings during outbreaks and major outbreaks.
- Provide and ensure use of face coverings when employees return to work after having COVID-19 or after a close contact. Please refer to the section in this FAQ on [CDPH's Isolation and Quarantine Guidance](#).
- Upon request from employees, provide face coverings at no cost to the employee.

All employees may wear face coverings at work, regardless of vaccination status, without fear of retaliation, as specified in section 3205(c)(5)(J).

All employees who are working indoors or in vehicles with more than one person can request respirators for voluntary use in compliance with subsection 5144(c)(2).

**4. Q: What personal protective equipment must an employer implement?**

**A:** An employer must:

- Evaluate the need for PPE, including but not limited to gloves, eye protection, and respiratory protection, as required by Cal/OSHA standards.
- Upon request, provide respirators for voluntary use to all employees who are working indoors or in vehicles with more than one person ("respirator" means a respiratory protection device approved by the National Institute for Occupational Safety and Health (NIOSH) to protect the wearer from particulate matter, such as an N95 mask).
- When respirators are provided for voluntary use, provide instructions, encourage their use, and ensure the respirator is the correct size for the employee.
- Provide and ensure use of respiratory protection for employees exposed to procedures that aerosolize saliva or other potentially infectious materials, such as some dental procedures.

**5. Q: What requirements must an employer follow if providing N95s for voluntary use or if workers bring their own N95 to wear at work?**

**A:** Where respirator use is voluntary, the employer may provide respirators at the



workers' request, or permit workers to use their own respirators. In this situation, employers are not required to have a written respiratory protection program or medically evaluate and fit test workers. However, the employer must ensure that the workers' use of a respirator will not create a hazard e.g., if the employee is engaged in frequent or continuous strenuous physical activity like continuous heavy lifting. The employer must also provide respirator users with the information contained in California Code of Regulations, Title 8, [section 5144, Appendix D](#). As mentioned in the [Training FAQs](#), employers who provide N95s for voluntarily use must train employees on how to properly wear the N95, perform a seal check and the fact that facial hair interferes with a seal.

## Ventilation [Back to top](#)

---

### 1. **Q: What are the indoor ventilation requirements?**

**A:** Employers must:

- Review CDPH and Cal/OSHA guidance regarding ventilation, including “[Interim Guidance for Ventilation, Filtration, and Air Quality in Indoor Environments](#).”
- Develop, implement, and maintain effective methods to prevent transmission of COVID-19 including one or more of the following:
  - Maximize as much as possible the quantity of outside air provided, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or maximizing outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.
  - In indoor locations with mechanical ventilation, filter circulated air through filters at least as protective as Minimum Efficiency Reporting Value (MERV)-13, or the highest level of filtration efficiency compatible with the existing mechanical ventilation system.
  - Use High Efficiency Particulate Air (HEPA) filtration units in accordance with manufacturers' recommendations in indoor areas occupied by employees for extended periods, where ventilation is inadequate to reduce the risk of COVID-19 transmission.

### 2. **Q: How can employers who rent buildings or workspace in buildings over which they do not have control comply with the requirements regarding maximizing outdoor air?**

**A:** Employers can use portable HEPA air filtration units in accordance with the manufacturer's recommendations to comply with the ventilation requirements of the COVID-19 Prevention regulations. Employers in these circumstances should also request that the building operator assist with compliance with the regulations. It should be noted that if the building operator has employees, it is also subject to the rule as the controlling employer.

3. **Q: What if an employer has processes that prevent the use of outdoor air?**

**A:** Employers can use other options to improve indoor air quality specified in the regulations: recirculate air with the highest filtration efficiency compatible with the ventilation system (at least MERV-13), and/or use HEPA filtration units in accordance with manufacturers' recommendations.

4. **Q: Is an entire building with a shared ventilation system one worksite for purposes of the COVID-19 Prevention regulations?**

**A:** Under the COVID-19 Prevention regulations, a "worksite" means the building, store, facility, agricultural field, or other location where a COVID-19 case was present during the infectious period. "Other location" includes floors not separated by floor-to-ceiling walls, suites, or rooms where the COVID-19 case was present during the infectious period.

By contrast, a "worksite" does not include the building, store, facility, agricultural field, floor, suite, or room where a COVID-19 case did not enter during the infectious period.

Therefore, even in a building or facility where different floors, suites, or rooms on the same floor share a ventilation system, only those floors, suites, or rooms where a COVID-19 case was present during the infectious period would constitute the worksite for purposes of the notice required in subsection 3205(e).

## Vaccines [Back to top](#) PUBLICATION FOR THE OCCUPATIONAL SAFETY AND HEALTH COMMUNITY

---

1. **Q: Must the COVID-19 Prevention regulations still be followed for vaccinated persons?**

**A:** Yes.

2. **Q: Do the COVID-19 Prevention regulations require employers to document employee vaccination status?**

**A:** No, the COVID-19 Prevention regulations do not require employers to document employee vaccination status.

3. **Q: May an employer require employees to submit proof of vaccination?**

**A:** Yes. [As explained by the California Civil Rights Department](#), because the reasons that any given employee or applicant is not vaccinated may or may not be related to disability or religious creed, simply asking employees or applicants for proof of vaccination is not a disability-related inquiry, religious creed-related inquiry, or a medical examination. Employers may wish to instruct their employees or applicants to omit any medical information from such documentation. Any record of employee or applicant vaccination must be maintained as a confidential medical record

4. **Q: May an employer require employees to be vaccinated against COVID-19?**

**A:** Yes. As explained by the California Civil Rights Department, an employer may require employees to receive an FDA approved vaccination against COVID-19 infection so long as the employer: does not discriminate against or harass employees or job

applicants on the basis of a protected characteristic; provides reasonable accommodations related to disability or sincerely-held religious beliefs or practices; and does not retaliate against anyone for engaging in protected activity (such as requesting a reasonable accommodation). For guidance on this topic, employers may wish to refer to information provided in the following FAQ resources provided by the federal Equal Employment Opportunity Commission (EEOC) and the California Civil Rights Department at the following webpages:

- [EEOC FAQ's regarding COVID-19](#)
- [Civil Rights Department FAQs regarding COVID-19](#)

## Training [Back to top](#)

---

1. **Q: What training must an employer provide employees under the COVID-19 Prevention regulations?**

**A:** Employers must provide training regarding COVID-19 in accordance with the Injury and Illness Prevention Program Regulation, subsection 3203(a)(7).

## Addressing COVID-19 Cases in the Workplace [Back to top](#)

---

1. **Q: What must an employer do to investigate and respond to a COVID-19 case?**

**A:** Investigating and responding to a COVID-19 case in the workplace includes the following:

- Determining when the COVID-19 case was last in the workplace, and if possible, the date of testing and onset of symptoms.
- Determining which employees may have been exposed to COVID-19 through a close contact.
- Providing written notification to all employees (and, if applicable, their union representatives) and independent contractors who were at the worksite at the same time as the COVID-19 case during the infectious period of any potential exposures within one business day (and notifying any other employer who has potentially exposed employees in the workplace).
- Making COVID-19 testing available to potentially exposed employees with a close contact at no cost and during working hours, with the exception of asymptomatic employees who recently recovered from COVID-19 (returned cases).
- Excluding COVID-19 cases from the workplace until they are no longer an infection risk, and implementing effective policies to prevent transmission after close contact. Please refer to the section in this FAQ on [CDPH's Isolation and Quarantine Guidance](#).

- Investigating the exposure, whether workplace conditions could have contributed to the risk of exposure, and what corrections would reduce exposure.
2. **Q: What is the "infectious period"?**  
**A:** For COVID-19 cases who develop COVID-19 symptoms, the "infectious period" is from two days before they first develop symptoms until 10 days after symptoms first appeared (or through day five if the COVID-19 case tests negative on day five or later), and 24 hours have passed with no fever, without the use of fever-reducing medications, and symptoms have improved.
- For COVID-19 cases who test positive but never develop COVID-19 symptoms, the "infectious period" is from two days before until ten days (or through day five if the COVID-19 case tests negative on day five or later) after the specimen for their first positive test for COVID-19 was collected.
- The definition of "infectious period" will change if CDPH changes its definition in a regulation or order.
3. **Q: What must an employer do if an employee claims a COVID-19 workplace exposure?**  
**A:** An employer should take any reports of exposure seriously and should investigate any evidence of an exposure. It is the employer's responsibility to determine if a close contact occurred.
4. **Q: What are the criteria for a COVID-19 case to return to work?**  
**A:** Please refer to the section in this FAQ on [CDPH's Isolation and Quarantine Guidance](#).
5. **Q: What are the criteria for an employee who had a close contact to return to work?**  
**A:** In non-outbreak situations, employers are not always required to exclude close contacts, but employers must implement effective policies to prevent transmission after a close contact. Please refer to the section in this FAQ on [CDPH's Isolation and Quarantine Guidance](#).
6. **Q: Is a negative test required for an employee to return to work?**  
**A:** Please refer to the section in this FAQ on [CDPH's Isolation and Quarantine Guidance](#). In certain circumstances, a negative test will allow an employee to return to work in a shorter period of time. However, employees can still return to work without a negative test, if the criteria for returning to work are met.

## Testing [Back to top](#)

---

1. **Q: What are the testing requirements in the COVID-19 Prevention regulations?**  
**A:** With respect to testing, the COVID-19 Prevention regulations requires an employer to:
- Offer testing at no cost and during paid time:

- To employees who had a close contact at work, with an exception for symptom-free employees who recently recovered from COVID-19 (returned cases).
- During an outbreak, to all employees within an exposed group, at least once a week, except for employees who were not at work during the relevant period and symptom-free employees who recently recovered from COVID-19 (returned cases). Employees who are not tested within 3-5 days after a close contact must be excluded from the workplace until the return to work requirements for COVID-19 cases in are met. Please see the [CDPH Isolation & Quarantine section of this FAQ](#) for information on when COVID-19 cases may return to work.
- During a major outbreak, twice per week, except for employees who were not at work during the relevant period and symptom-free employees who recently recovered from COVID-19 (returned cases). Employees in the exposed group who are not tested must be excluded from the workplace until the return-to-work requirements for COVID-19 cases are met. Please see the [CDPH Isolation & Quarantine section of this FAQ](#) for information on when COVID-19 cases may return to work.
- When following [CDPH's Isolation and Quarantine Guidance](#) to keep employees working or return them sooner, if tested. Please refer to the section in this FAQ on [CDPH's Isolation and Quarantine Guidance](#).
  - Provide testing in a manner that ensures employee confidentiality.

2. **Q: How can an employer comply with the testing requirement?**

**A:** To comply with the testing requirements of the COVID-19 Prevention regulations, an over-the-counter (OTC) COVID-19 test may be both self-administered and self-read if verification of the results, such as a time and date stamped photograph of the result or an OTC test that uses digital reporting with time and date stamped results, is provided.

3. **Q: Does the employer have to provide testing to employees at their work location?**

**A:** No. The employer may provide or make available testing to employees at a testing site separate from their work location.

4. **Q: Can employers send their employees to a free testing site for testing (e.g., run by their county) and is this considered to be "at no cost to employees"?**

**A:** Yes, as long as employees incur no cost for the testing. Ensuring that an employee does not incur costs would include paying employees' wages for their time to get tested, as well as travel time to and from the testing site. It would also include reimbursing employees for travel costs to the testing site (for example, mileage or public transportation costs).

5. **Q: What should employers do if employees refuse to take the tests required by various provisions of the emergency regulations?**

**A:** An employer that offers a test at no cost to the employee does not violate the regulation because an employee declines or refuses to take it. The employer is not required to obtain a signed declination from employees who refuse to take a COVID-19 test offered by the employer. In the case of major outbreaks, pursuant to section 3205.1(g)(1) employees in the exposed group who are not tested must be excluded and follow the return to work requirements of subsection 3205(c)(5) starting from the date that the outbreak begins. Employers may require employees to undergo COVID-19 testing under certain circumstances. Please refer to the [California Civil Rights Department's FAQ on the topic for further information](#).

6. **Q: What does "paid time" mean, in relation to providing COVID-19 testing?**

**A:** This means that the employer must make testing available during paid time. While the employee must be compensated for their time and travel expenses, the employer is not obligated to provide the test during the employee's normal working hours.

7. **Q: What kinds of tests are acceptable to comply with the regulations' testing requirements?**

**A:** Tests approved by the United States Food and Drug Administration (FDA) or that have an Emergency Use Authorization (EUA) from the FDA to diagnose current infection with the SARS-CoV-2 virus may be used. These include both PCR and antigen tests. The test must be administered in accordance with the FDA approval or FDA EUA, as applicable.

8. **Q: In a non-outbreak setting, how does an employer determine which employees may have had close contact with a COVID-19 case?**

**A:** Please see the "[Definition](#)" section in this FAQ.

9. **Q: In a non-outbreak setting, what are employers required to do when they learn that one or more of their employees had close contact with a COVID-19 case at the workplace?**

**A:** Employers must:

- Notify all employees and their authorized representatives who may have had close contact with a COVID-19 case within one business day in a manner that does not reveal the COVID-19 case's personal identifying information.
- Offer testing during paid time and at no cost to any employee with a close contact that occurred in the workplace, and provide applicable benefit information. There is an exception for recently recovered COVID-19 cases who remain symptom-free (returned cases).
- Review current CDPH guidance for persons who had close contacts, including any guidance regarding quarantine or other measures to reduce transmission, and implement effective policies to prevent transmission of COVID-19 by close contacts.

- Exclude from the workplace employees who test positive for COVID-19, regardless of vaccination status. For more information on this topic, please refer to the section in this FAQ on [CDPH's Isolation and Quarantine Guidance](#).
- Follow the return to work criteria for returning excluded employees to work.
- Investigate the exposure and address hazards.
- Follow all recordkeeping and reporting requirements for employee COVID-19 cases.

**10. Q: Where can I find COVID-19 testing for my employees?**

**A:** Some of the simplest ways to find free testing include the following:

- At the [California Department of Public Health](#) or the [National Association of County and City Health Officials](#) website, click on the county or city health department in the area where you would like employees to be tested. Many local health departments maintain websites with up-to-date information on testing locations. Click on the appropriate health department's website and search for testing sites. Follow instructions to identify testing locations and schedule a test. All counties offer free testing for individuals at designated testing sites.
  - Note that in most cases, prior to scheduling a testing appointment, the employee who will be getting tested is required to answer questions in an online form about whether or not they have symptoms, whether they have been exposed to someone with COVID-19, etc. To complete the online scheduling process, the employee also must provide their consent to receive the test.
- An employer can partner with a medical provider to establish a testing program. Some providers offer on-site testing of employees.

However testing is arranged, employers must ensure it is done on paid time and employees do not incur any costs for COVID-19 testing required by the COVID-19 Prevention regulations.

**11. Q: May employers require employees to undergo COVID-19 testing?**

**A:** Employers may require employees to undergo COVID-19 testing under certain circumstances. Please refer to the [Civil Rights Department's FAQ on the topic](#) for further information.

## Outbreaks [Back to top](#)

---

**1. Q: In an outbreak (three or more COVID-19 cases among employees in an "exposed group" within a 14-day period), what are an employer's obligations?**

**A:** In addition to the requirements for non-outbreak settings, an employer must:

- Exclude COVID-19 cases as well as employees who had close contacts but do not take a COVID-19 test. For more information on this topic, please see below and refer to [the section in this FAQ on CDPH's Isolation and Quarantine Guidance](#). Specifically, employers must take the following steps:
  - Exclude COVID-19 cases.
  - Immediately make COVID-19 testing available to its employees within the exposed group, and then again one week later; and continue to make tests available to employees at least weekly until the workplace no longer qualifies as an outbreak, i.e., there are one or fewer new COVID-19 cases detected in the exposed group for a 14-day period, per section 3205.1(a)(2). However, an employer need not make testing available to employees who were absent from the workplace during the relevant 14-day period or who recently recovered from COVID-19 and do not have symptoms (returned cases).
  - Ensure all employees who had close contacts and remain at work take a COVID-19 test within three to five days after the close contact and exclude from the workplace employees who test positive for COVID-19. Exclude employees who do not take a COVID-19 test within three to five days after the close contact until the return-to-work requirements for COVID-19 cases are met. Please see [the CDPH Isolation & Quarantine section of this FAQ](#) for information on when COVID-19 cases may return to work.
- Perform a review of potentially relevant COVID-19 policies, procedures, and controls and implement changes as needed to prevent further spread of COVID-19 as soon as the outbreak provisions apply, and then periodically thereafter.
- Implement ventilation changes to mechanical ventilation systems including increasing filtration efficiency to at least MERV-13, or the highest efficiency compatible with the ventilation system. Evaluate whether HEPA air filtration units are needed.
- All employees in the exposed group regardless of vaccination status must wear face coverings when indoors, or when outdoors and less than six feet from another person, unless an exception applies.

**2. Q: What are an employer's requirements in a major outbreak (20 or more COVID-19 cases in an "exposed group" within a 30-day period)?**

**A:** In addition to the requirements in FAQ 1 above, an employer must:

- Exclude COVID-19 cases as well as employees in the exposed group who do not take a COVID-19 test. For more information on this topic, please see below and refer to [the CDPH Isolation & Quarantine section of this FAQ](#) for information on



when COVID-19 cases may return to work. Specifically, employers must take the following steps:

- Exclude COVID-19 cases.
- Immediately ensure that all employees in the exposed group who remain at work are tested for COVID-19 at least twice weekly until there are fewer than three COVID-19 cases in the exposed group for a 14-day period, per section 3205.1(g)(1). Then the employer must make tests available to employees within the exposed group at least weekly, as required by section 3205.1(b), until there are one or fewer new COVID-19 cases detected in the exposed group for a 14-day period.
- Exclude all employees in the exposed group who do not take a COVID-19 test until the return to work requirements for COVID-19 cases are met. Please [see the CDPH Isolation & Quarantine section of this FAQ](#) for information on when COVID-19 cases may return to work.
  - Provide respirators to all employees in the exposed group, regardless of vaccination status, to use on a voluntary basis. Employees who do not use a respirator voluntarily must continue to use a face covering.
  - Where respirators are not worn, separate employees in the exposed group from other persons by at least six feet except where it is not feasible and except for momentary exposure while persons are in movement.
  - Determine the need for a respiratory protection program (non-voluntary, with fit testing and medical evaluation requirements), or for changes to an existing respiratory protection program under section 5144, to address COVID-19 hazards.

### 3. Q: What is an "exposed group"?

**A:** All employees at a work location, working area, or a common area at work, where an employee COVID-19 case was present at any time during the infectious period. A common area at work includes bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. A place where persons momentarily pass through while everyone is wearing face coverings without congregating is not a work location, working area or a common area at work.

If the COVID-19 case was part of a distinct group of employees who are not present at the workplace at the same time as other employees, for instance a work crew or shift that does not overlap with another work crew or shift, only employees within that distinct group are part of the exposed group. If the COVID-19 case visited a work location, working area, or common area at work for less than 15 minutes during the infectious period, and all persons were wearing face coverings at the time the COVID-19 case was present, other people at the work location, working area or common area are not part of the exposed group.

4. **Q: Is the requirement to make testing available during outbreaks triggered by three or more employee cases in an entire building?**  
**A:** No, the testing requirement is triggered by three or more employee cases in a 14-day period present in the same "exposed group" during the "infectious period." For other areas of the workplace, follow the requirements for employees who are exposed to COVID-19 cases.
5. **Q: Can an employer separate employees into cohorts to reduce the likelihood of COVID-19 cases occurring in the same work locations/areas?**  
**A:** Yes, that is an acceptable strategy to reduce both risk and testing obligations. The COVID-19 Prevention regulations requirements must still be implemented in the cohort.
6. **Q: How can an employer measure the 14- or 30-day period in which to look for positive employee cases to determine if there has been an outbreak or major outbreak?**  
**A:** The employer should look to the testing date of the employee cases. Any employee cases for which the tests occurred within a 14-day period of each other would be reviewed to see if the other criteria for an outbreak have been met.
7. **Q: Is the "three or more cases" outbreak requirement limited to employee cases, or do cases involving anyone that has been in the workplace count towards the requirement?**  
**A:** The cases are only among employees. However, this may include independent contractors and employees of contractors, subcontractors, or other businesses or agencies.
8. **Q: In a major outbreak, if an employee does not test as required and is excluded, what happens when they return? Because they isolate for at least 10 days, when they return, the outbreak status may not have ended. If the outbreak has not yet ended, must they be excluded again when they again refuse the next scheduled test?**  
**A:** Not necessarily. After the initial exclusion period, they may generally stay at work without additional testing as long as they take all other precautions indicated for major outbreaks. However, if the employee who didn't test and was excluded for 10 days has a close contact after they return to work, they must test negative or be excluded for another 10 days.

## Benefits Available to Excluded Workers [Back to top](#)

---

1. **Q: Can employees qualify for workers' compensation if they were exposed to COVID-19 in the workplace and test positive or are unable to work due to COVID-19 related symptoms?**  
**A:** Employees who test positive for COVID-19 or are unable to work due to COVID-19 and believe they contracted COVID-19 at work should file a workers' compensation claim with their employer. For more information, see the [Division of Workers' Compensation COVID-19 Guidance and Resources](#).

2. **Q: What other COVID-19 pay or benefits may an employee be entitled to?**

**A:** If you are unable to work because you are infected or suspect you are infected with COVID-19, you can [file a Disability Insurance \(DI\) claim](#). You will need to provide a certification by your treating physician or by a [state or local health officer](#).

Employees may be entitled to other pay and benefits. Please see [additional resources on various programs administered by the Labor Commissioner's Office and other government agencies](#).

## Waivers of Exclusion Requirements Based on Community Health and Safety [Back to top](#)

---

1. **Q: What should an employer consider before seeking a waiver from Cal/OSHA from the return-to-work requirements of the COVID-19 Prevention regulations (Subsection 3205(c)(5)(D))??**

**A:** The COVID-19 Prevention regulations allow employers to request a waiver of the requirement to exclude employees from the workplace if excluding them would create an undue risk to public health and safety. Cal/OSHA will not grant a waiver in violation of any order issued by a local or state health official pertaining to isolation or quarantine. To qualify for a waiver, an employer: (1) must provide goods or services, the interruption of which would cause an undue risk to a community's health and safety; **AND** (2) must be facing a potential staffing shortage based on actual COVID-19 cases or exposures. This exception is narrower than the definition of "critical **NITY** infrastructure," though such operations may qualify if there is an adverse impact on a community's health and safety.

Requests should not be made in anticipation of a future outbreak.

2. **Q: How can an employer submit a request for a waiver of the exclusion requirements?**

**A:** Employers should submit requests for waivers in writing, to [RS@dir.ca.gov](mailto:RS@dir.ca.gov). In the event of an emergency, an employer may request a provisional waiver by calling the local district office while it prepares its written request.

3. **Q: What information should an employer provide to Cal/OSHA in seeking a waiver of the requirement to exclude certain employees from the workplace?**

**A:** While there are no set criteria for granting a waiver in the COVID-19 Prevention regulations, a waiver request that includes the following information would constitute a complete waiver request that Cal/OSHA could quickly review and respond to:

- The name of the employer and a description of their business or service;
- The name, address, email, and phone number of the employer's point-of-contact;
- Statement that there are no local or state health officer orders for isolation or quarantine of the excluded employees;

- A statement describing how excluding the exposed or COVID-19 positive employees from the workplace would affect the employer's operation in a way that creates an undue risk to the community's health and safety;
- The number of employees required to be excluded under the COVID-19 Prevention regulations, and whether each employee was exposed to COVID-19 or tested positive for COVID-19;
- The employer's control measures to prevent transmission of COVID-19 in the workplace if the employee(s) return or continue to work in the workplace, including the prevention of further exposures. These include measures such as isolating the returned employee(s) at the workplace, use of respiratory protection by other employees in the exposed workplace or other equally effective measures;
- Providing clear, specific responses when requesting a waiver will help Cal/OSHA respond as efficiently as possible.

## Recordkeeping and Reporting [Back to top](#)

---

### 1. Q: What reporting and recordkeeping requirements are in the COVID-19 Prevention regulations?

A: An employer's reporting and recordkeeping requirements under the COVID-19 Prevention regulations include the following:

- Following state and local health department reporting requirements.
- Reporting serious occupational illnesses to Cal/OSHA, consistent with existing regulations.
- Maintaining records required by California Code of Regulations, title 8, [section 3203\(b\)](#), including inspection records, documentation of hazard corrections and training records (requirements vary by employer size).
- Making the written Injury and Illness Prevention Program including COVID-19 policies and procedures available upon request to Cal/OSHA, employees and employees' authorized representatives.
- Recording and tracking all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, date of last day at the workplace and date of positive COVID-19 test. The information must be provided to the local health department, Cal/OSHA, the Department of Public Health, and the National Institute for Occupational Safety and Health immediately upon request. Otherwise, medical information must be kept confidential unless disclosure is required or permitted by law.

## Employer-Provided Housing [Back to top](#)

---

1. **Q: Does the section of the COVID-19 Prevention regulations regarding Employer-Provided Housing (Cal. Code Regs., tit. 8, § 3205.2) apply to housing in which all residents are fully vaccinated?**  
**A:** Yes, the section of the COVID-19 Prevention regulations regarding employer-provided housing applies to residents regardless of vaccination status.
2. **Q: Do the COVID-19 Prevention regulations' housing requirements apply to housing of H-2A employees subject to a federal agreement, even if that agreement allows for a greater number of employees in a given space?**  
**A:** Yes, the COVID-19 Prevention regulations apply to housing subject to an H-2A contract. The H-2A program requires H-2A employers to comply with state laws, including health and safety laws.
3. **Q: How does an employer enforce physical distancing and face covering requirements in employer-provided housing?**  
**A:** California Code of Regulations, title 8, section 3205.2 does not require employers to enforce physical distancing and face covering requirements. The employer obligations include:
  - Providing face coverings to all residents along with information regarding when they should be used in accordance with state or local health officer orders or guidance.
  - Maximizing the quantity and supply of outdoor air and the filtration efficiency.
  - Encouraging residents to report COVID-19 symptoms.
  - Communicating to residents the policies and procedures for COVID-19 testing.
  - Isolate COVID-19 positive persons from other residents for the time period specified in subsection 3205(c)(5)(A) (Please see the [CDPH Isolation & Quarantine section of this FAQ](#) below).
  - Quarantine residents who had a close contact from other residents, when required. (Please see the [CDPH Isolation & Quarantine section of this FAQ](#) below).

## CDPH Isolation and Quarantine [Back to top](#)

---

1. **Q: How do the recommended [isolation and quarantine periods from CDPH](#) affect the COVID-19 Prevention regulations?**

**A:** The COVID-19 Prevention regulations' required exclusion periods for employees with COVID-19 are the same as CDPH's recommended isolation periods for positive COVID-19 cases. For exclusion requirements for employees who test positive for COVID-19, please refer to Table 1 below.

For employees who had a close contact, employers must review CDPH guidance and implement quarantine and other measures to prevent COVID-19 transmission in the

workplace. Please refer to table 2 and table 3 below for CDPH quarantine guidance after close contact.

Where the tables refer to action to be taken on a specified day (e.g. "day 5" or "day 10"), day 1 is the first day following the onset of symptoms or, if no symptoms develop, the day following the first positive test.

**Table 1: Exclusion Requirements for Employees Who Test Positive for COVID-19**

<p>Requirements apply to <b>all</b> employees, regardless of vaccination status, previous infection, or lack of symptoms.</p>	<ul style="list-style-type: none"> <li>○ Employees who test positive for COVID-19 must be excluded from the workplace for at least 5 days after start of symptoms or after date of first positive test if no symptoms.</li> <li>○ Isolation can end and employees may return to the workplace after day 5 if symptoms are not present or are resolving, and a diagnostic specimen* collected on day 5 or later tests negative.</li> <li>○ If an employee’s test on day 5 (or later) is positive, isolation can end and the employee may return to the workplace after day 10 if they are fever-free for 24 hours without the use of fever-reducing medications.</li> <li>○ If an employee is unable or choosing not to test<sup>i</sup>, isolation can end and the employee may return to the workplace after day 10 if they are fever-free for 24 hours without the use of fever-reducing medications.</li> <li>○ If an employee has a fever<sup>ii</sup>, isolation must continue and the employee may not return to work until 24 hours after the fever resolves without the use of fever-reducing medications<sup>iii</sup>.</li> <li>○ If an employee’s symptoms other than fever are not resolving, they may not return to work until their symptoms are resolving or until after day 10.</li> <li>○ Employees must wear face coverings around others for a total of 10 days. Please refer to the section in this FAQ on <a href="#">face coverings</a> for additional face covering requirements.</li> </ul> <p>* Antigen test preferred.</p>
---	--

**Table 2: CDPH Guidance for Close Contacts**

Asymptomatic Persons Who are Exposed to Someone with COVID-19 (No Quarantine)	<ul style="list-style-type: none"><li>○ Test within 3–5 days after last exposure.</li><li>○ Close contacts should wear a well-fitting mask around others for a total of 10 days, especially in indoor settings and when near those at higher risk for severe COVID-19 disease.</li><li>○ Strongly encouraged to get vaccinated or boosted.</li><li>○ If symptoms develop, test, and stay home, AND</li><li>○ If test result is positive, follow isolation recommendations above (Table 1).</li></ul>
---	--

---

<sup>i</sup>Employers may require employees submit to viral testing for COVID-19. Please refer to the [FAQ from the Civil Rights Department](#) for further information.

<sup>ii</sup>A fever is a measured body temperature of 100.4 degrees Fahrenheit or higher.

<sup>iii</sup>A fever resolves when 24 hours have passed with no fever, without the use of fever-reducing medications.

In addition to the above, pursuant to subsection 3205(c)(5)(C), when an order to isolate, quarantine, or exclude an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine is completed or the order is lifted even if the order exceeds the specified exclusion requirements in the COVID-19 Prevention regulations or CDPH recommendation.

## Additional Resources [Back to top](#)

1. **Q: What additional resources are available for employers and workers to understand the rule and comply?**

**A:** Cal/OSHA has a number of resources in place and in development to assist with compliance with the COVID-19 Prevention regulations:

- These FAQs will be expanded on an ongoing basis to assist stakeholders in understanding the COVID-19 Prevention regulations.
- The Consultation Services Branch will be available to answer employer questions about the COVID-19 Prevention regulations.
- Cal/OSHA is updating its training on the COVID-19 Prevention regulations to provide in a webinar format.

- Cal/OSHA has developed a Model Program to assist employers in developing COVID-19 prevention policies and procedures for their Injury and Illness Program.
- Materials will continue to be posted and updated on [Cal/OSHA's COVID-19 webpage](#).
- [Labor Commissioner's COVID-19 Guidance and Resources](#)
- For questions on paid sick leave, retaliation protections, filing a wage claim, or retaliation complaint, call 833-LCO-INFO (833-526-4636)
- You can file a [workplace safety and health complaint with Cal/OSHA online](#), or by telephone at the [district office closest to you](#).
- [COVID-19 Resources for Workers' Compensation](#)
- Call 1-800-736-7401 for recorded information on workers' compensation benefits from Information and Assistance staff 24 hours a day, or [contact a local Division of Workers' Compensation office](#) during business hours to reach a live person.
- [California Civil Rights Department COVID-19 Resources and Guidance](#) (Includes Information on COVID-19 Vaccinations in the Workplace)



Cal-OSHA Reporter®

A WEEKLY PUBLICATION FOR THE OCCUPATIONAL SAFETY AND HEALTH COMMUNITY