



November 12, 2021

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Cal/OSHA  
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Subject: **Standards for workplace protection from COVID-19 - Emergency Temporary Standards (ETS) & Two-Year Standard**

Dear Cal/OSHA:

We submit the following comments related to the [draft of the proposed second re-adoption](#) of the COVID Prevention ETS, as well as Cal/OSHA's related work on ongoing standards for workplace protection from COVID-19.

We would like to thank the Division for its dedicated focus on science-driven standards in proposing these proposed updates to mandatory workplace standards that are helping protect California workers from COVID-19, in coordination with the California Department of Public Health. Because COVID-19 can be spread via vaccinated asymptomatic individuals, we welcome the scaling back of exceptions for vaccinated asymptomatic employees.

#### **1. §3205.1 Multiple COVID-19 Infections and COVID-19 Outbreaks**

"The definition of "outbreak" should match the California Department of Public Health (CDPH) definition. In the original adoption of the ETS, the definition aligned with that established by CDPH, in that three or more cases at a worksite qualified. However, in the June re-adoption of the ETS, the definition was significantly limited to three or more "employee" COVID-19 cases. By leaving out positive COVID-19 cases involving non-employees - customers, contractors, students, etc - this language significantly limits protection for employees and seriously increases the likelihood of workplace spread of COVID-19.

COVID-19 is just as transmissible and deadly regardless of who it's contracted from; limiting the definition to only consider certain cases would ignore the science and hide many outbreaks from this critically important section of the ETS. The Standards Board should revert to the original definition of outbreak, consistent with CDPH, which simply stated that 3 or more cases constitutes a worksite outbreak, whether or not the cases are technically employees. Worksafe supports returning the definition of "outbreak" to the original version which counted all COVID-19 cases, not only "employee" cases.

## 2. Standard Regulatory Impact Analysis for Ongoing Workplace Protection

As Cal/OSHA prepares for the end of the ETS with a proposed draft of a two-year standard to come into effect after April 2022, we want to remind the agency of the importance of initiating the required Standardized Regulatory Impact Assessment (SRIA). Given the severity of the ongoing risk to California's workers, it is imperative that the analysis be well underway to prevent any avoidable interruption, delay or reduction in these vital COVID workplace protections.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "AnaStacia Nicol Wright".

AnaStacia Nicol Wright  
Staff Attorney