

CALIFORNIA INDUSTRIAL HYGIENE COUNCIL

*Advancing public policy to improve the health and safety
of workers and the community.*

December 18, 2020

Via email: rs@dir.ca.gov

Division of Occupational Safety and Health
(DOSH)

Stakeholders Meeting

Via Zoom meeting on December 18, 2020

Subject: Emergency Temporary Standard, California Code of Regulations, Title 8,
Sections 3205; 3205.1; 3205.2; 3205.3; and 3205.4, COVID-19 Prevention

Dear Sir/Madam:

The California Industrial Hygiene Council (CIHC) appreciates the opportunity to comment on the subject Emergency Temporary Standard (ETS). We understand all of the hard work from DOSH staff on this challenging issue. The CIHC, founded in 1990, represents the industrial hygiene and the occupational and environmental health professions in California. CIHC is affiliated with the national American Industrial Hygiene Association (AIHA), an 8,000-member organization. The CIHC is formally comprised of industrial hygienists and occupational and environmental health and safety professionals who are members of the five California AIHA local sections represented by the CIHC Board of Directors. The CIHC's mission is to provide sound scientific and technological input to the regulatory and legislative processes, and establish a legislative presence in the state Capitol through professional representation.

The CIHC has reviewed the ETS in detail and has prepared a list of comments on various provisions. Please refer to the 2-page enclosure with this letter.

The CIHC appreciates the opportunity to be involved with the regulatory process. We look forward to participating in future actions regarding this subject, such as an advisory panel, and we can act as a technical resource for the process. Please contact me on behalf of the CIHC at (916) 712-4547 or kwa-sacramento@att.net.

Very truly yours,
California Industrial Hygiene Council



Pamela Murcell, MS, CIH
President, CIHC

Enclosure:

CALIFORNIA INDUSTRIAL HYGIENE COUNCIL

COMMENTS ON EMERGENCY TEMPORARY STANDARDS 8 CCR 3205, 3205.1, 3205.2, 3205.3, 3205.4

COVID-19 PREVENTION

8 CCR 3205.

(b) Exposed workplace definition – is this one shift? Does this mean a 24-hour workplace; for example, a COVID case on day shift is applicable to all shifts?

(c)(1)(A) Does the system need to identify who receives the employee symptoms information and does that person need to be HIPAA trained?

(c)(1)(D) Would this include all vendors, customers, service technicians, etc.? Does the employer need to share the entire set of COVID policies and procedures (Case Management, disinfection protocol, training, etc.)?

(c)(2)(D) This seems impossible - to identify all interactions - is this on an ongoing surveillance basis? Covid-19 hazards would include symptomatic/positive employees and if their symptoms onset occurs once they are already on site how can one perform this identification if the employee has not reported their symptoms?

(c)(2)(D) If they have a negative test result they are allowed to return to the workplace after any symptoms have subsided (3 days without meds). If employer continued to treat them as potentially infectious, they would need to stay home and could not return to work. This statement suggests no one can continue to work at the worksite.

(c)(2)(D)1. This section is problematic as exposure can occur anywhere there is more than one person present, thus every task that could be performed as well as every area in a facility would need to be listed.

(c)(2)(D)2. How can one document an evaluation of potential exposure to all persons at work? Any criteria for what should be included in the evaluation?

(c)(2)(E) The requirement to “maximize quantity of outdoor air” is not applicable to all indoor work places. There are indoor work places that, even though there are filters in the HVAC system, have recirculating air. There are also indoor work places that do not have mechanical HVAC systems.

(c)(2)(H) There is no definition of periodic - is there a minimum frequency?

(c)(3)(B)3.b. Even if there was no close interaction with the affected employee? Even if they were in completely different areas or floors of the facility?

(c)(3)(B)4. Clarify “offer” testing. Does the employer simply need to provide information to employees on where testing is available? “Offering” testing is inconsistent with language in (c)(7)(C) that states “unmasked employee is tested at least twice weekly for COVID-19”, which implies testing is required.

(c)(3)(C) A small group of employees will need to know to investigate, to manage cases, to conduct deep cleaning/disinfection of work areas etc. It cannot be completely confidential.

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COMMENTS ON EMERGENCY TEMPORARY STANDARDS 8 CCR 3205, 3205.1, 3205.2, 3205.3, 3205.4

COVID-19 PREVENTION

8 CCR 3205 (continued)

(c)(5)(E) Hand hygiene has nothing to do with aerosol generation and particles traveling more than 6 ft.

(c)(6)(A) How does this need to be demonstrated? What if both employees working near each other < 6ft are in respiratory protection?

(c)(7)(C) Testing at least twice weekly seems arbitrary.

(c)(7)(F) What if the policies mandate mask wearing?

(c)(8)(A) What if these partitions are not feasible in certain work settings where employees need to work in same laboratory on adjacent equipment etc.?

(c)(8)(B) Similar comment as before regarding applicability of “maximize quantity of outside air” to all indoor work places. Disagree with using AQI as a reference for air quality in this requirement.

(c)(8)(E)2. What about APRs with exhalation valves?

(c)(9) There are logistical issues with reporting. For example, inconsistency on what is to be reported depending on to which agency is receiving the report; local agencies are not prepared to receive the reports.

8 CCR 3205.1

(b)(1) Clarify “provide” testing. Does the employer make the arrangements for testing and inform the employees of availability? Does testing have to be onsite or can it be offsite? If employee refuses testing, does that have to be documented? What are the consequences of refusing testing?

(b)(2)(B) Weekly testing seems ineffective to ensure employees haven't contracted the virus in the interim.

8 CCR 3205.2

(b) Clarify “provide” testing. Does the employer make the arrangements for testing and inform the employees of availability? Does testing have to be onsite or can it be offsite? If employee refuses testing, does that have to be documented? What are the consequences of refusing testing? What is the basis for the frequency of testing?

8 CCR 3205.4

(c)(2) This may be impossible in most vehicles.