

2025 Cal/OSHA Webinar series

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Workplace Safety after COVID-19 Regulations Sunset and the Potential General Industry Infectious Disease Standard

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Rachel L. Conn is a Partner and Chair of **Conn Maciel Carey's** California Practice. She is based out of the firm's San Francisco office.

- Focuses on OSH compliance and litigation, including inspections, audits, investigations, and enforcement actions involving Cal/OSHA, fed OSHA, and other State OSH Plans.
- Represents employers and trade associations in Cal/OSHA and fed OSHA rulemakings.
- Previously, Rachel was a partner and led the national OSHA Practice at an AmLaw 100 law firm.



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- Defends employers in employment-related litigation and administrative proceedings across California, including claims involving workplace safety, discrimination, harassment, wage and hour disputes, and wrongful termination.
- Provides strategic counsel to employers on compliance with state and federal employment laws, as well as Cal/OSHA regulations, helping businesses implement best practices to minimize risk and maintain a legally compliant workplace.

Agenda

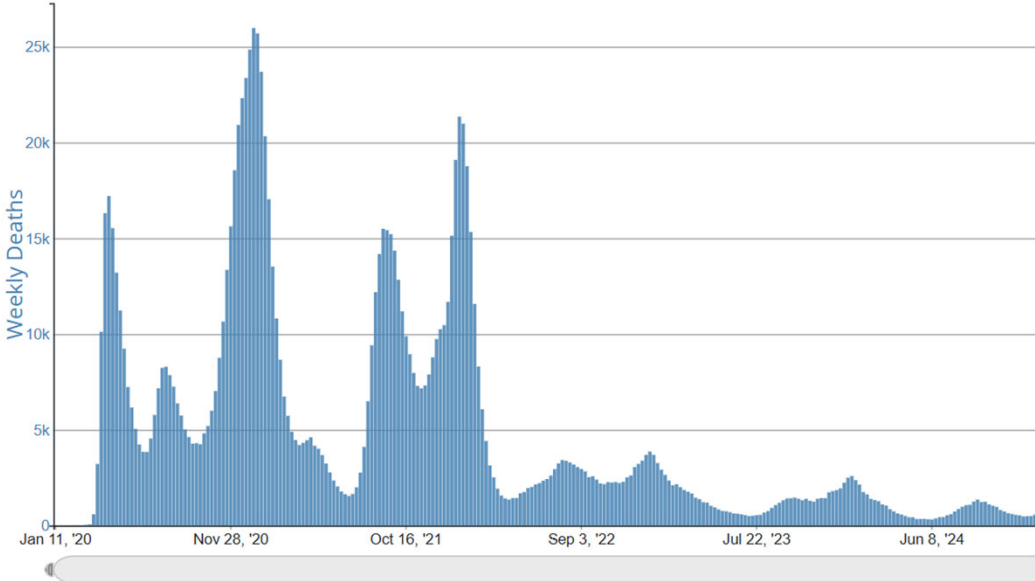
- COVID-19 Regulations, Orders, & Guidance
- Current COVID-19 Guidance & Regulations
- Lessons from the COVID-19 Pandemic
- Infectious Diseases: How to Prepare
- Infectious Disease Rulemaking



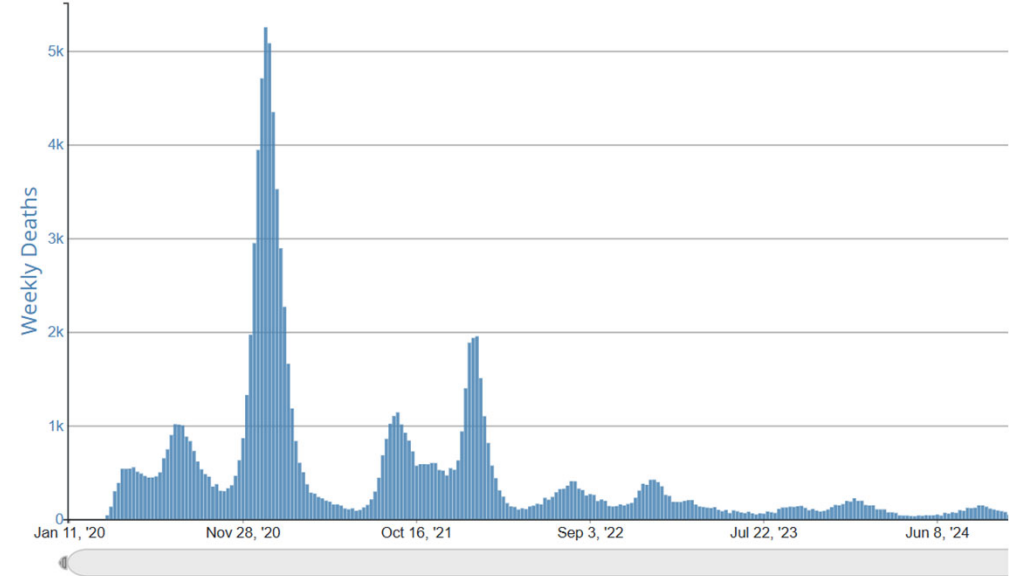
**COVID-19
Regulations, Orders, & Guidance**

COVID-19 from 2020 to Present

Provisional COVID-19 Deaths, by Week, in The United States, Reported to CDC



Provisional COVID-19 Deaths, by Week, in California, Reported to CDC



COVID-19: Orders, Regulations, & Guidance

Orders, regulations, and guidance during COVID-19:

- Early Pandemic Regulations:
 - Injury & Illness Prevention Program (IIPP) (8 CCR 3203)
 - Respiratory Protection (8 CCR 5144)
 - Aerosol Transmissible Diseases (ATD) Standard (8 CCR 5199)
- COVID-19 specific regulations:
 - Worksites not covered by ATD Standard
 - Emergency Temporary Standards (ETS) (8 CCR 3205) – multiple versions
 - Non-Emergency Standard
- Cal/OSHA Guidance
- State & Local Orders & Guidance: California Department of Public Health & local counties/cities



Current COVID-19 Guidance & Regulations

COVID-19: Current Orders, Regulations, & Guidance

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- Cal/OSHA standards
 - IIPP
 - ATD Standard
 - Respiratory Protection
- Cal/OSHA Guidance:
 - *If an employer identifies COVID-19 as a workplace hazard at their place of employment, then the employer must identify, evaluate, and correct any unsafe or unhealthy conditions, work practices, or work procedures that are associated with COVID-19.* (<https://www.dir.ca.gov/dosh/coronavirus/>)
- Cal/OSHA Reporting & Recording Requirements FAQ (<https://www.dir.ca.gov/dosh/coronavirus/Reporting-Requirements-COVID-19.html>)
- Other Guidance:
 - California Department of Public Health (CDPH) Guidance

The screenshot shows the CDPH website header with navigation links: en Español, Contact Us, About, News & Media, Jobs/Careers, Select Language, and Text Resize. The main navigation includes 'I am looking for', 'I am a', 'Programs', and 'A-Z Index'. The breadcrumb trail reads: Home | Diseases And Conditions | COVID-19 | COVID-19 Home. The featured banner is titled 'When & Why You Should Wear a Mask' and features a photo of a baker wearing a mask. The text on the banner states: 'Wearing a mask consistently and correctly is one of the best ways to protect yourself from getting COVID-19 or other respiratory infections.' A button labeled 'Read More About Masks' is visible at the bottom of the banner.

Cal/OSHA's Non-Emergency COVID-19 Standard

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- The majority of the provisions in the Non-Emergency COVID-19 Standard sunset on February 3, 2025, including Section 3205.1 (outbreaks) and Sections 3205.2 & 3205.3 (governing employer-provided housing and transportation)
- Subsection 3205(j) on Recordkeeping and Reporting remains in effect until February 3, 2026, and requires:
 - Tracking and maintaining records of all COVID-19 cases, including:
 1. The employee's name, contact information, and occupation
 2. The location where the employee worked
 3. The employee's last day at the workplace
 4. The date of the positive COVID-19 test and/or COVID-19 diagnosis
 - Retaining COVID-19 notices
 - Retain these records for “two years beyond the period in which the record is necessary to meet the requirements.”

Cal/OSHA's Non-Emergency COVID-19 Standard



Per Cal/OSHA guidance:

- Requires that the employer keep a record of and track all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, the date of the last day at the workplace, and the date of the positive COVID-19 test and/or COVID-19 diagnosis.
- It also requires that information on COVID-19 cases be provided to the local health department with jurisdiction over the workplace, CDPH, the Division, and NIOSH immediately upon request, and when required by law.

Source: <https://www.dir.ca.gov/dosh/coronavirus/>

Injury and Illness Prevention Program



- Even without a specific set of regulatory requirements relating to the prevention of COVID-19 or other infectious diseases (e.g., tuberculosis or measles) in the workplace, employers will still be required to maintain a **safe** and **healthful** place of employment as required by Labor Code section 6400.
- Employers must establish, implement, and maintain an effective Injury and Illness Prevention Program as required by 8 CCR 3203.
 - If an employer identifies COVID-19 or other infectious diseases as a workplace hazard at their place of employment, then the employer must identify, evaluate, and correct any unsafe or unhealthy conditions, work practices, or work procedures that are associated with the hazard.

Aerosol Transmissible Diseases (ATD) Standard

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- Protects workers from diseases transmitted through the air (e.g., tuberculosis, COVID-19, measles).
- Applies to general acute care hospitals, emergency medical services, skilled nursing facilities, some correctional facilities, certain laboratories and medical offices, and others.
 - The extent to which employers are covered depends on the nature of occupational exposure their employees have.
- Referring vs. Non-Referring Employers
- Precautions based on disease/pathogen (see Appendix A)



Aerosol Transmissible Diseases (ATD) Standard

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- Key requirements of full standard employers include:
 - Exposure control plan
 - Engineering and work controls (e.g., isolation rooms, ventilation)
 - Personal protective equipment (PPE)
 - Respiratory protection
 - Training and medical surveillance
 - Recordkeeping



§5199. Appendix A.

This appendix contains a list of diseases and pathogens which are to be considered aerosol transmissible pathogens or diseases for the purpose of Section 5199. Employers are required to provide the protections required by Section 5199 according to whether the disease or pathogen requires airborne infection isolation or droplet precautions as indicated by the two lists below.

Diseases/Pathogens Requiring Airborne Infection Isolation

Aerosolizable spore-containing powder or other substance that is capable of causing serious human disease, e.g. Anthrax/Bacillus anthracis

Avian influenza/Avian influenza A viruses (strains capable of causing serious disease in humans)

Varicella disease (chickenpox, shingles)/Varicella zoster and Herpes zoster viruses, disseminated disease in any patient. Localized disease in immunocompromised patient until disseminated infection ruled out

Measles (rubeola)/Measles virus

Monkeypox/Monkeypox virus

Novel or unknown pathogens

Severe acute respiratory syndrome (SARS)

Smallpox (variola)/Variola virus

Tuberculosis (TB)/Mycobacterium tuberculosis - Extrapulmonary, draining lesion; Pulmonary or laryngeal disease, confirmed; Pulmonary or laryngeal disease, suspected

Any other disease for which public health guidelines recommend airborne infection isolation

Diseases/Pathogens Requiring Droplet Precautions

Diphtheria pharyngeal

Epiglottitis, due to Haemophilus influenzae type b

Haemophilus influenzae Serotype b (Hib) disease/Haemophilus influenzae serotype b - Infants and children

Influenza, human (typical seasonal variations)/influenza viruses

Meningitis

Haemophilus influenzae, type b known or suspected

Neisseria meningitidis (meningococcal) known or suspected

Meningococcal disease sepsis, pneumonia (see also meningitis)

Mumps (infectious parotitis)/Mumps virus

Mycoplasmal pneumonia

Parvovirus B19 infection (erythema infectiosum)

Pertussis (whooping cough)

Pharyngitis in infants and young children/Adenovirus, Orthomyxoviridae, Epstein-Barr virus, Herpes simplex virus, Pneumonia

Adenovirus

Haemophilus influenzae Serotype b, infants and children

Meningococcal

Mycoplasma, primary atypical

Streptococcus Group A

Pneumonic plague/Yersinia pestis

Rubella virus infection (German measles)/Rubella virus

Severe acute respiratory syndrome (SARS)

Streptococcal disease (group A streptococcus)

Current CDPH Guidance (Non-Healthcare)

Masking Recommendations

- If you test positive for COVID-19, masking is recommended.
- If you were exposed and will be around high-risk individuals, consider wearing a high-quality mask (respirator).
- If you are at high risk for severe illness, consider wearing a high-quality mask (respirator).

Ventilation Recommendations (CDPH & CDC)

- Provide at least 5 air changes per hour or 30 CFM per occupant in indoor spaces.
- Open windows and doors to improve natural ventilation.

When to Test for COVID-19

- If you have symptoms.
- If you were exposed and have symptoms.
- If you will be around high-risk individuals.

CDPH's Responding to COVID-19 in the Workplace is no longer in effect

<https://www.cdpn.ca.gov/Programs/CID/DCDC/Pages/COVID-19/COVID-19-Isolation-Guidance.aspx>

Current CDC Guidance (Non-Healthcare)

- No COVID-19 specific guidance—instead “Respiratory Virus Guidance”
 - Covers Respiratory Viruses: COVID-19, Flu, and RSV
 - When You Are Sick:
 - Stay home and avoid others, including household members.
 - Seek healthcare for testing and/or treatment if at risk for severe illness.
 - Returning to Normal Activities:
 - You can resume activities when BOTH are true for at least 24 hours:
 - Symptoms are improving overall.
 - No fever without using fever-reducing medication.
- For the next 5 days, take added precautions:
 - Improve air quality
 - Practice good hygiene
 - Wear a mask
 - Maintain physical distance
 - Consider testing before indoor gatherings
- Additional Prevention Strategies:
 - Masking, distancing yourself and testing for COVID-19

<https://www.cdc.gov/covid/prevention/index.html>



Lessons from the COVID-19 Pandemic

How to Deal with Conflicting Guidance



During the COVID-19 pandemic, there was conflicting guidance from WHO, CDC, CDPH, Cal/OSHA, and county and city health departments.



In the event of a conflict, follow the most stringent requirement.



Remember that Cal/OSHA regulations are legally enforceable, while CDPH guidance may be advisory. WHO and CDC guidance is advisory. At times, guidance would cross-reference guidance from another entity.



The guidance was updated as our understanding of COVID-19 evolved, and regular review by employers was necessary to stay compliant.



Remember! Cal/OSHA may be different than Federal regulations and guidance

Lessons from Cal/OSHA COVID-19 Citations

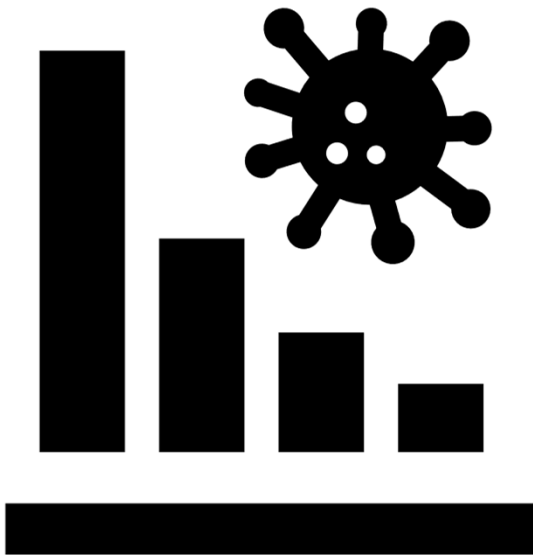
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- Cal/OSHA's regulatory flexibility is limited
- Cal/OSHA required strict adherence to its standards, despite conflicting guidance and evolving science
- Cal/OSHA did not consider an employer's reference to other agencies' guidance when evaluating an employer's Cal/OSHA COVID-19 policies

In the Matter of the Appeal: Sutter Bay Medical Foundation

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- Hospital was subject to the ATD standard.
- The Board affirmed that N-95s were required in early 2020 due to COVID being a new and novel pathogen.
- However, the Board reclassified the citation from Serious to General, recognizing that “the employer acted reasonably amidst the extraordinary emergent circumstances of the first half of 2020. During the early stages of a burgeoning pandemic and facing surging increases in COVID cases statewide, indeed worldwide, amid growing supply shortages, Employer’s decision to limit the use of N95 respirators to HCP who were directly caring for and treating patients was reasonable.”
- Takeaway: Despite acting reasonably due to the supply shortage, Cal/OSHA still found a violation.

More Lessons from the COVID-19 Pandemic

- Regulations are hard to apply to outbreak situations
 - e.g., documentation can be different during an outbreak
- Interaction with other regulations:
 - Respiratory Protection
 - Heat Illness
 - Recordkeeping
 - Employee Access to Medical Records



A stack of several white surgical masks with elastic ear loops is positioned in the upper half of the image. Below the masks, a pair of clear safety glasses with a white frame is visible. The items are resting on a light-colored, textured surface, possibly a tablecloth or paper. The overall scene is brightly lit, creating soft shadows.

Infectious Diseases: How to Prepare

Infectious Diseases - How to Prepare

- More than just COVID:
 - Measles
 - Tuberculosis
 - Avian Flu
- Don't forget about bloodborne pathogens!



Measles Cases (Non-Healthcare)

- As of March 20, 2025, a total of 378 confirmed measles cases were reported by 18 jurisdictions: Alaska, California, Florida, Georgia, Kansas, Kentucky, Maryland, Michigan, New Jersey, New Mexico, New York City, New York State, Ohio, Pennsylvania, Rhode Island, Texas, Vermont, and Washington.
- There have been 3 outbreaks (defined as 3 or more related cases) reported in 2025, and 90% of confirmed cases (341 of 378) are outbreak-associated.
 - For comparison, 16 outbreaks were reported during 2024 and 69% of cases (198 of 285) were outbreak-associated.

Source: <https://www.cdc.gov/measles/data-research/index.html>

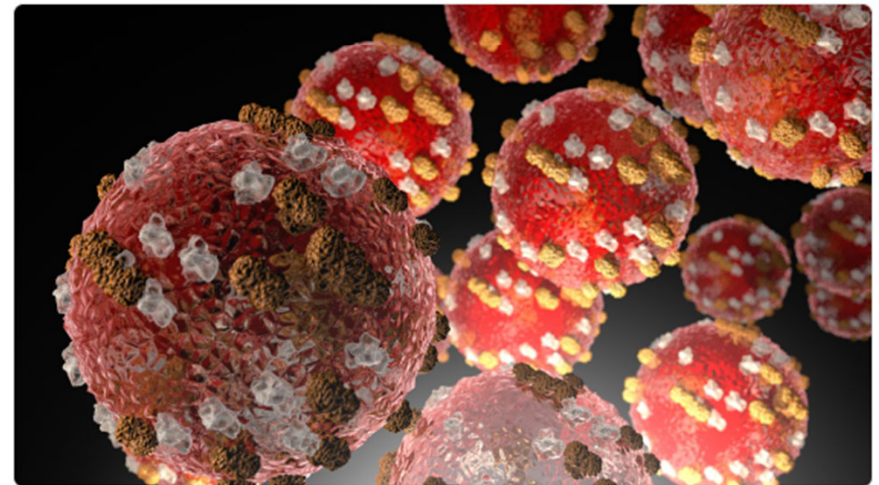


Measles (Rubeola)

MENU ▾

About Symptoms and Complications How It Spreads Vaccination Plan for T

About Measles



Measles: How It Spreads (Non-Healthcare)

How It Spreads:

- Among the most contagious viruses worldwide
- Spreads through airborne droplets when an infected person breathes, talks, coughs, or sneezes
- Virus can linger in the air for hours after an infected person leaves
- Contagious before symptoms appear and 4 days before & after rash develops

Why Measles Is Serious:

- Can lead to hospitalization, long-term illness, and death

Symptoms & Timeline:

- 7–14 days after exposure: High fever, cough, runny nose, watery eyes
- 3–5 days after symptoms begin: Red rash develops

Source: <https://www.cdph.ca.gov/Programs/OPA/Pages/Communications-Toolkits/Measles.aspx#>

QUESTIONS & ANSWERS ABOUT TUBERCULOSIS

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Tuberculosis: How It Spreads

- **Transmission:** TB spreads through the air when a person with infectious TB (lung/throat) coughs, speaks, or sings. Nearby people may breathe in the TB germs and become infected.
- **Latent TB:** In most people, the body can fight the germs, preventing them from growing. The TB germs become inactive, but they remain alive in the body and can become active later.
- **Contagious Period:** With medication, after about 2–3 weeks, a person may no longer spread TB germs to others.
- **Legal Framework:** Governed by California Health and Safety Codes.

Source: https://www.cdc.gov/tb/media/Question_Answers_About_TB_English.pdf





Avian Flu

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Avian flu, or bird flu, primarily affects birds but can infect people. The current strain, Influenza A (H5N1), is widespread in wild birds globally and has affected U.S. poultry and dairy cows, with cases appearing in workers.

At-risk workers are workers with job-related contact with infected birds or dairy cows are at risk, including those working with poultry, waterfowl (e.g., geese, ducks), and livestock.

Ways Employees Can Be Infected:

- Inhalation: Breathing in particles containing the virus.
- Direct Contact: Infectious particles contact the eyes, nose, or mouth.
- Surface Contamination: Touching contaminated surfaces and then touching eyes, nose, or mouth.

Risky Tasks:

- Handling sick animals.
- Contact with animals infected but not showing symptoms.
- Handling animal wastes (feces, milk).
- Collecting and disposing of dead animals.
- Exposure to animal litter containing infectious pathogens

Source: <https://www.dir.ca.gov/dosh/avian-flu/>

Avian Flu Programs

- **Section 5199.1** (Zoonotic ATD):
 - Ensure that:
 - The workplace Injury and Illness Prevention Program (IIPP) includes effective procedures for preventing worker exposure to zoonotic aerosol transmissible diseases (ATDs).
 - Additional worker exposure control measures, personal protective equipment, training, and detailed written safety procedures are required when the workplace is subject to quarantine measures or other infection control orders even if there are no infected animals.
 - Where there are infected animals or their wastes, additional and more stringent and protective measures for workers are required, including mandatory respiratory protection.
- **Section 3203** (Injury and Illness Prevention Program): Establish, implement, and maintain an effective, written Injury and Illness Prevention Program (IIPP).
- **Section 5144** (Respiratory Protection Program): Develop and implement an effective Respiratory Protection Program with worksite-specific procedures and elements for required respirator use.



Don't Forget About Bloodborne Pathogens



- Purpose is to reduce occupational exposure to blood and other potentially infectious materials.
- Applies to healthcare, first responders, funeral services, medical equipment service and repair operations, regulated waste operations, tissue bank operations, general dentistry offices and clinics, and other high-risk occupations.
- Key requirements include:
 - Exposure Control Plan
 - Sharps injury log
 - Exposure determination
 - Universal precautions
 - Engineering and work practice controls
 - PPE
 - Hepatitis B vaccination
 - Post-exposure evaluation and follow-up
 - Communication of hazards to employees
 - Training and recordkeeping

IIPP - Infectious Disease Assessment



Hazard Assessment & Exposure Control – Identify workplace risks and apply control measures



Prevention Measures – Implement hygiene, disinfection, screening, and PPE protocols



Employee Training & Communication – Educate workers on safety, PPE use, and reporting



Response & Reporting – Establish outbreak response, isolation, and reporting procedures



Flexibility for Emerging Diseases



Cal/OSHA & Public Health Compliance – Review ATD Standard, sunset COVID-19 regulations, and CDC/CDPH guidance for best practices



Infectious disease policy

Infectious Disease Policy

- Key elements:
 - Covered Conditions
 - Includes illnesses, diseases, and medical conditions that pose a credible threat of transmission in our workplace
 - Excludes communicable illnesses like HIV that do not pose a credible threat under typical workplace conditions
 - Response Approach
 - Handle cases individually based on specific circumstances
 - Comply with applicable federal, state, and local public health authorities, CDC, and other governmental guidelines
 - Generally follow guidelines and universal precautions from such sources, while considering your specific environment.
 - Employee Reporting Requirements
 - Employees should report if they:
 - Are diagnosed with a communicable illness that may spread in the workplace.
 - Believe they have been exposed to someone diagnosed with such an illness.
 - Have recently visited an outbreak area, feel unwell, or show symptoms.
 - Develop reporting structure

Infectious Disease Policy

- Work travel
 - Generally follow the travel advisories issued by the CDC, State Department, and other government agencies
 - Consider what to do if employees are required to travel to a particular location for work and become ill
- Returning to Work
 - If an employee is (a) diagnosed with a communicable illness reasonably transmittable in the workplace or (b) quarantined in association with such an illness, you may want to require a note from a medical provider stating that it is safe for them to return to work
- Other Considerations
 - Consider latest labor and employment laws
 - Review and apply relevant sick leave policies





Infectious Disease Rulemaking

Proposed Infectious Disease Standard for General Industry

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- Cal/OSHA has indicated plans to create an infectious disease prevention regulation applicable to general industry.
- Will it look more like COVID regulations or ATD standard? CDC guidance re: respiratory viruses?
- One size fits all?
 - Hard to create regulations that can be flexible to changing public health guidance and evolving science
- Apparently draft ready but not yet been released
 - No timeline on when this will happen
 - No advisory committee meetings so far

Concerns with Infectious Disease Standard for General Industry

- If the new standard mirrors the ATD Standard and treats all new or novel pathogens at the highest level of protection, employers will have no flexibility, even if science shows such protection is unnecessary.
 - When does a pathogen stop being “new or novel”?
- For example, Monkeypox was initially classified as requiring highest-level respiratory protection under Cal/OSHA. However, the latest strain was primarily transmitted through direct contact, creating inconsistencies between Cal/OSHA requirements and public health guidance.
- Alternatively, the new standard could be targeted to specific types of infectious diseases, allowing for more flexibility based on scientific evidence and transmission methods.

Revisions to ATD Standard



Status Update

Discussion draft released and advisory committee convened

No movement since 2021



Proposed Revisions:

Added COVID & MERS to Appendix A (COVID no longer “novel”)

Incorporated CDPH orders

Ensured COVID-19 vaccinations are available to healthcare workers

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Workplace Safety after COVID-19 Regulations Sunset and the Potential General Industry Infectious Disease Standard

Tuesday, March 27th

Federal and State OSHA Heat Illness Prevention (OSHA & Cal/OSHA Crossover)

Thursday, April 24th

Cal/OSHA Mid-Year Update

Wednesday May 21st

Top Cal/OSHA Violations

Wednesday, June 18th

Top Strategies for Reviewing Your Safety Program

Thursday, July 24th

How Safety Impacts the Workplace Beyond OSHA

Wednesday, August 27th

Protect Your Interest: Workplace Crisis Management

Wednesday, September 10th

Process Safety Update

Thursday, October 16th

CMC's 3rd Annual Cal/OSHA and Employment Law Summit

Tuesday, October 21st and Thursday, October 23rd

Workplace Violence Prevention Strategies

Thursday, November 13th

Annual Cal/OSHA Enforcement and Regulatory Update: Are You Ready for 2026?

Thursday, December 4th

2025 OSHA Webinar series

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OSHA 2024 in Review and 2025 Forecast

Tuesday, January 28th

5 Most Cited General Industry OSHA Standards

Thursday, March 20th

Massage Therapy/ART and Other Cutting-Edge Issues in Recordkeeping (Mental Health)

Wednesday, May 14th

Updates in the Retaliation and Whistleblower Landscape

Wednesday, July 9th

Protect Your Interest: Workplace Crisis Management

Wednesday, September 10th

Workplace Violence Prevention Strategies

Thursday, November 13th

Key Considerations in IH (Chemicals & Dust)

Monday, February 10th

Federal and State OSHA Heat Illness Prevention

Thursday, April 24th

What Employers Need to Know About OSHA Formal Letters of Interpretation

Tuesday, June 17th

Top 5 Construction Industry OSHA Citations

Wednesday, August 13th

Process Safety Update: OSHA's PSM Standard, EPA's RMP Rule, the Chemical Safety Board, and Cal/OSHA's PSM Unit

Thursday, October 16th

Safety 2.0: New Approaches to Performance Management (HOP), Auditing and Enforcement

Tuesday, December 16th

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the **OSHA** Defense report



the **Employer** Defense report



the **Cal/OSHA** Defense report



the **MSHA** Defense report

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California Workplace Violence Prevention Compliance Solutions

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- Hazard assessments
- Incident investigations and reports
- Violent Incident Logs
- Interactive employee and supervisor training
- Recordkeeping

OSHA Injury and Illness Recordkeeping and Reporting Masterclass

- OSHA 300 Log recordkeeping
- E-Recordkeeping
- Serious injury and fatality reporting
- determining work-relatedness and reporting regulations.

OSHA Inspection Masterclass

- Building and preparing your inspection team
- Preparation strategies
- Achieving successful outcomes
- Employers' and employees' rights
- Tips for managing each stage of an inspection
- Dealing with third-party participants

California Harassment Training Seminar

- Work site programs for compliance with California harassment training requirements
- Two-hour training sessions per work site for supervisory employees and managers
- One-hour non-supervisory training sessions for companies with five or more employees
- Customized materials provided

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Questions?



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