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Via Electronic Mail

Chair David Thomas and Board Members
Occupational Safety and Health Standards Board
Department of Industrial Relations
State of California
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
OSHSB@dir.ca.gov

Re: Comments and Recommendations About Cal/OSHA's Proposed Permanent COVID-19 Prevention Rule

Dear Chair Thomas and Members of The Board:

On behalf of the **California Employers COVID-19 Prevention Coalition** ("the Coalition" or "Coalition Members"), we have served on the Advisory Committee for the Cal/OSHA COVID-19 Prevention Emergency Temporary Standard (the "Emergency Temporary Standard" or "ETS") and the Proposed Permanent COVID-19 Prevention Standard (the "Proposed Permanent Rule" or "Rule"). We respectfully offer these comments and recommendations concerning the Proposed Permanent Rule under consideration.

As a reminder, the California Employers COVID-19 Prevention Coalition is composed of a broad array of California and national employers and trade groups substantially impacted by Cal/OSHA's ETS and which would be substantially impacted by the Proposed Permanent Rule. Included among its members are companies representing manufacturing, healthcare, retail, airline operations, aerospace/defense, agriculture, wine making, construction, wholesale food distribution, landscaping services, petroleum refining, logistics, veterinary services, steelmaking, among other industries, with a combined thousands of workplaces with hundreds of thousands of employees across California. The common thread among our Coalition Members is that they are responsible employers who care deeply about their employees' health and safety.

Our Coalition Members implemented thoughtful and effective COVID-19 prevention plans even before California's ETS and have achieved real success mitigating the spread of the coronavirus in their workplaces. Our Coalition Members have been on the frontlines

fighting this pandemic (now evolving into endemic conditions) for over two years, and since the rollout of safe and efficacious vaccines early last year. The recommendations and concerns we share in this letter represent the collective wisdom of employers and the essential employees who have worked through this health crisis.

To facilitate review of these comments, our specific comments and recommendations are organized by and listed under the proposed regulatory provisions they address, and proposed deletions and alternative regulatory text are presented in red font.

General Comments

Questionable Utility of a Permanent COVID-19 Rule

As a preliminary matter, we urge the Board not to adopt the Proposed Permanent Rule. This type of prescriptive rulemaking cannot keep up with changes in medical science and new methods to manage transmission of COVID-19. As we have seen repeatedly with the ETS, core elements of the rule have become obsolete over time as scientific knowledge has evolved concerning the transmission of the virus and the measures that are effective to prevent its spread, which has only become more pronounced with the emergence of variants (most recently, the BA.5 subvariant of Omicron). For example, the ETS required employers' adherence to robust mandates for sanitizing work surfaces, even after it was confirmed that those measures had a limited efficacy in preventing the spread of COVID-19. While the ETS was updated via the re-adoptions, there is no such mechanism for the Board to correct, revise, or rescind ineffective or unnecessary elements found in the Proposed Permanent Rule, which is slated to remain in effect for a two-year term. We can expect a similar dynamic in the months and years ahead as this oft-mutating virus transitions into an endemic illness.

Instead of focusing on slowing transmission of the virus, the Centers for Disease Control and Prevention ("CDC") has recommended prioritizing preventing severe illness. In its recent guidance, the CDC has emphasized the importance of vaccination and other preventive measures, including antiviral treatments and ventilation.[1] The Board's Proposed Permanent Rule is out of step with the CDC and its recognition that COVID-19 conditions have evolved such that the old rules no longer apply.

Cal/OSHA's Injury and Illness Prevention Program ("IIPP") Standard remains a more effective tool for addressing COVID-19 hazards in the workplace than a permanent prescriptive rule that cannot be revised. Throughout the pandemic, COVID-19-related citations have been regularly issued under the IIPP and the Aerosol Transmittable Diseases Standards, and those standards obviously will remain in effect after the ETS expires. As an

[1] See CDC's Summary of Guidance for Minimizing the Impact of COVID-19 on Individual Persons, Communities, and Health Care Systems.

example of the applicability of the IIPP to COVID-19 related hazards, the Cal/OSHA Appeals Board, in *BSF FITNESS II, LLC*, Cal/OSHA App. 21-1487741, Decision After Reconsideration (August 16, 2022), recently affirmed citations under the IIPP Standard based on the employer's alleged failure to effectively identify or evaluate workplace hazards relating to COVID-19 and lack of effective training and instruction to its employees regarding the hazards presented by COVID-19.

Coalition Members have found public health orders, which can be issued on a moment's notice based on real-time knowledge of conditions, most instructive in determining what measures to implement to prevent the spread of COVID-19 in the workplace. By contrast, the procedural rules governing adoption of regulations impose on the Board a quasi-legislative process which cannot be as nimble as health department orders. The Standards Board's most thoughtful efforts in the case of COVID-19 therefore are certain to be quickly outdated by advances in our knowledge of this disease and the characteristics of its permutations.

Deference to CDPH and Division Guidance

We flag here the instances where the Proposed Permanent Rule problematically defers to guidance published by the California Department of Public Health ("CDPH") and Division of Occupational Safety and Health ("Division"). The Standards Board lacks authority to do this in rulemaking, as general agency guidance cannot be relied upon in rulemaking and attempts to do so represent underground regulations. For example, in *Tri-City Reinforcing Corp.*, Cal/OSHA Appeal 93-R5D2-3101, Decision After Reconsideration (June 30, 1999), the Cal/OSHA Appeals Board made clear that the "Standards Board is the only body authorized to promulgate safety orders under the California Occupational Safety and Health Act," and ultimately ruled that the Division policy and procedures manual – a guidance document – is not legally binding in light of the California Supreme Court's holding in *Tidewater Marine Western, Inc. v. Bradshsaw* (1996) 14 Cal.4th 557.

The Supreme Court in *Tidewater* held that a Division of Labor Standards Enforcement manual "would of course be no more binding on the agency in the subsequent agency proceeding or on the courts when reviewing agency proceedings than are decisions or advice letters it summarizes." 14 Cal.4th at 571. Interpretations and guidance are subject to the requirements of the Administrative Procedure Act pursuant to Title 1, California Code of Regulations § 250, and thus are void as underground regulations and are not entitled to any deference. *Ibid.* Accordingly, we urge the removal of each of the references in the Proposed Permanent Rule to CDPH or Division guidance – including those that would mandate employers to review or consider the guidance, which are a thinly veiled requirement for employers to adopt that guidance.

Specific Comments

§ 3205 – COVID-19 Prevention

(c) – Employer's COVID-19 Procedures and Training

As a preliminary matter, we want to recognize that this Proposed Rule is a marked improvement over the ETS in how it streamlines the requirements for written COVID-19 Prevention Programs and employee training. For example, under section 3205(c), the Proposed Permanent Rule no longer requires the COVID-19 Prevention Program contain each and every one of the 10 enumerated elements, including their various subparts. We believe it is more realistic and effective for employers to address potential workplace hazards associated with COVID-19 under the IIPP Standard by, for example, identifying and correcting such workplace hazards. As discussed above, the IIPP as a performance-based standard is particularly well suited for addressing COVID-19 prevention in the workplace in light of the evolving scientific knowledge over the virus making a prescriptive standard like the ETS obsolete or impractical in numerous respects.

In addition, Section 3205(c)(3) requires employees to receive training regarding COVID-19 in accordance with Section 3203(a)(7)(IIPP Standard), rather than enumerating specific training requirements that may become obsolete over time. Employers have been cited under the ETS for not including enough detail on some aspect of one or more of the 10 training topics required under the ETS, even where the training program may have comprehensively addressed known COVID-19 risks in the workplace and the employer's COVID-19 related procedures. We support requiring COVID-19 prevention training consistent with the IIPP's mandate for training on job safety specific to an employee's individual duties. See *United Parcel Service*, Cal/OSHA App 13-R3D2-2664 and 2665, Decision After Reconsideration (Sept. 6, 2017). The IIPP Standard can be effectively utilized by the enforcement agency to address COVID-19 related hazards, whether specific to training or the identification and correction of such hazards.

(a)(1) – Scope: Sunset Provision

The sunset date for the Proposed Permanent Rule is "2 years after effective date" (except for recordkeeping subsections (j)(2) through (5)), which means late 2024 if the rule is adopted on the anticipated timeline. We believe this duration is excessive and inflexible given that COVID-19 will likely become endemic before the sunset date. Our Coalition is concerned that the Rule may remain in effect at a period when serious illness associated with COVID-19, such as ICU hospitalizations and deaths, have decreased to a point that the Rule is rendered obsolete.

We recommend that should a two-year term be adopted, the Rule include alternative bases to terminate the Rule earlier. For example, the Rule should be set to

automatically expire should the declared state of emergency over the COVID-19 pandemic be rescinded or the Rule be repealed by Executive Order. These alternatives are preferable to the Standards Board having to undertake a time-consuming rulemaking process to consider and execute the repeal of the Rule.

We believe the Proposed Permanent Rule should be terminated as well if the ICU hospitalization rates drop and remain below a certain level for a meaningful period. As COVID-19 becomes endemic with sustained low hospitalization and fatality rates within the state, the need for a prescriptive rule to address a myriad of potential scenarios will be called into question. For example, as of September 6, 2022, the COVID-19 death rate was .1 per 100,000[2] and the COVID-19 hospitalizations in ICU units was 351.[3] By comparison, on January 10, 2021 early in the pandemic, the death rate was 17 times the current rate (*i.e.*, 1.7 per 100,000) and ICU hospitalization rate was almost 14 times the current rate (*i.e.*, 4,868).[4] The aggressive measures advanced by the regulating agencies at the outset of the pandemic, particularly around testing, workplace exclusion of suspected close contacts and reporting outbreaks, are much less meaningful at this stage as we continue to witness a significant decrease in serious illness and death caused by COVID-19.

Our Coalition's Proposed Regulatory Text

(a) Scope.
(1) This section shall apply until [OAL insert date two years after effective date], except for the recordkeeping subsection (j)(2) through (5), which shall apply until [OAL insert date three years after effective date], or earlier if any of the following applies: (1) the statewide hospitalization in ICU units resulting from COVID-19 infections drops below 600 over a three-month period; (2) the declared state of emergency over the COVID-19 pandemic is rescinded; or (3) the permanent rule is repealed by Executive Order.[5]

(b)(1) – Definition of "Close Contact"

The Proposed Permanent Rule has adopted CDPH's definition of close contact removing the six-foot/15-minute standard. The Rule defines "close contact" to mean "**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 the COVID-19 case's infectious period, as defined by this section, regardless of the use of face coverings…."

This close contact definition – which is currently in effect under the ETS based on CDPH's June 8, 2022 public health order – is ambiguous and largely unworkable, and thus

[2] See www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx
[3] See https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/hospitals/#icu-beds
[4] See www.covid19.ca.gov/state-dashboard
[5] For consistency, we recommend the same note be included after the identical sunset clauses in the related Sections 3205.1, 3205.2. and 3205.3.

should not be incorporated into the rulemaking as a permanent definition. Although CDPH and the Division have issued guidance, in the form of FAQS, to assist in understanding and applying this new definition, employers cannot rely on such guidance for purposes of enforcement actions as that would make them underground regulations. See *Tri-City Reinforcing Corp.*, supra. Rather, employers must rely on the definition itself, which by its own terms can render each and every employee in a workplace a close contact, regardless of how close individuals were to the COVID-19 case, the configuration of the workplace, airflow or engineering controls that may be in place to control the spread of the virus.

Employers need a clear definition of close contact that can be understood and applied to specific workplaces, whether a small office or large warehouse building. The CDC's close contact definition incorporating the 6-foot benchmark has been the measurable standard consistently relied upon by OSHA and public health agencies and employers across the country for over two years. This new CDPH definition injects a novel ambiguous term with no reference to proximity that has, to put it lightly, unnecessarily complicated the efforts of Coalition Members to determine whether their employees have experienced a close contact, particularly in large open spaces such as distribution centers, manufacturing facilities, warehouses and hangars where employees work far apart from one another. Given the ambiguity around the new definition and industry's reliance on the CDC's familiar standard, we encourage the Board to retain CDC's close contact definition. By seemingly broadening the circumstances in which an individual may be considered a close contact, California is out of step with other OSHA state plans as well as the CDC, which is scaling back what is considered a close contact.

Our Coalition Members have struggled with the CDPH's new definition of close contact because it is hopelessly vague, making it necessary for employers to conduct an impractically imprecise investigation to determine close contacts, using up valuable resources that may not be readily available. As a result, some employers have deemed it necessary to consider anyone who worked in the same workplace as a COVID-19 case during the relevant period to be a close contact. This has resulted in a significant financial and personnel burden on such employers.

The new definition further financially impacts employers by requiring them to comply with CDPH's recommendations that any close contact – as broadly characterized under this new definition – be tested between three and five days after exposure. Coalition Members have shared that they have spent tens of thousands of dollars on antigen tests alone, administering hundreds of tests to employees, with only a small handful showing a positive result. The burden, as such, is not justified under these circumstances given the results. Further, the testing and quarantine requirements with exclusion pay where an employee fails or refuses to test has imposed unnecessary operating costs on employers.

Should the Division be inclined to keep the current definition of close contact, however, the Coalition encourages adding clarifying language recognizing the importance of proximity to the COVID-19 case, as well as the direction of airflow, the facility's

configuration, and engineering controls, as considerations in determining close contacts. In an FAQ, the Division recognizes that "proximity and length of exposure" are "key" to determining whether an employee experiences a close contact.[6] While overly limited, this guidance provides some clarity that should be incorporated into the Rule.

Our Coalition's Proposed Regulatory Text

3205(b)(1) "Close contact" means being within six feet of ~~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 the COVID-19 case's infectious period, as defined by this section, regardless of the use of face coverings, unless close contact is defined by regulation or order of the California Department of Public Health (CDPH). If so, the CDPH definition shall apply.
being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the infectious period defined by this section, regardless of the use of face coverings~~, unless close contact is defined by regulation or order of the CDPH. If so, the CDPH definition shall apply.~~

[Or, Alternatively]

3205(b)(1) "Close contact" means 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 the COVID-19 case's infectious period, as defined by this section, regardless of the use of face coverings~~, unless close contact is defined by regulation or order of the California Department of Public Health (CDPH). If so, the CDPH definition shall apply.~~ For purposes of determining whether persons shared the same indoor airspace as a COVID-19 case, employers may consider the proximity to the COVID-19 case, airflow, configuration of any buildings or work areas (such as ceiling height or size of the space) and any engineering controls that prevent the spread of COVID-19.

(b)(6)(C) – Definition of "COVID-19 Test"

The definition of "COVID-19 test" provides, similar to the ETS, that, "[t]o meet the return-to-work criteria set forth in subsection 3205(c)(5), a COVID-19 test may be self-administered and self-read ***only if another means of independent verification of the results can be provided (e.g., a time-stamped photograph of the results).***" The Division's FAQ on the ETS expounds on this, explaining that "[t]o comply with the testing requirements of the ETS, 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."

[6] See www.dir.ca.gov/dosh/coronavirus/covid19faqs.html

The Coalition has found their employees struggling with adding a time/date stamp on photographs and encourages the Board to modify this definition to permit a photograph alone to meet the requirement where the test is both self-administered and self-read.

Our Coalition's Proposed Regulatory Text

3205(b)(6) "COVID-19 test" means a test for SARS-CoV-2 that is:

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(C) To meet the return to work criteria set forth in subsection 3205(c)(5), a COVID-19 test may be self-administered and self-read only if another means of independent verification of the results can be provided (e.g., a ~~time-stamped~~ photograph of the results).

(c) – Removing Exclusion Pay Requirement from Regulation

We support the Division's removal of the exclusion pay provision, in light of the California legislature having already addressed exclusion pay under the 2020, 2021, and 2022 COVID-19 Supplemental Paid Sick Leave laws. It is unprecedented for Cal/OSHA to impose far-reaching wage mandates like those included in the ETS. Such employer pay requirements fall squarely within the province of the California legislature, especially given its interest in this subject from past legislation.

(g) – Respirators

The Proposed Permanent Rule would require employers to provide, upon request, an N95 respirator for voluntary use to any employee working indoors or in vehicles with more than one person. Like the Division's previous draft of this Rule, we urge that the provision of N95 respirators be limited to employees who have been identified by their physician or other health care professional as being at an increased risk of severe illness from COVID-19, in consideration of the cost of continuously providing respirators and potential shortages, particularly during wildfire smoke season.

Employers should also be able to request a doctor's note from the requesting employee as a condition for providing respirators, consistent with federal and state anti-discrimination laws. Under the federal Americans with Disabilities Act and California Fair Employment and Housing Act, an employer may require an employee to provide a note from the employee's health care provider concerning the need for accommodation due to the employee's disability or medical condition. See, e.g., 2 Cal. Code Regs. § 11069(c)(2) (FEHA regulation)("When the disability or need for reasonable accommodation is not obvious, and the applicant or employee has not already provided the employer or other covered entity with reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, the employer or other covered entity may require the applicant or employee to provide such reasonable medical documentation)(Emphasis); *Dep't of Fair Empl. & Hous. v. Lucent Techs., Inc.*, 642 F.3d 728

(9th Cir. 2011)(employer may rely on notes from employee's health care provider to evaluate need for reasonable accommodation). Accordingly, we support revising the Rule to harmonize this provision with long-standing reasonable accommodation laws.

Our Coalition's Proposed Regulatory Text:

(g) Upon request, employers shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to all employees working indoors or in vehicles with more than one person and who have been identified by their physician or other health care professional as being at an increased risk of severe illness from COVID-19.

NOTE: Employers may request a doctor's note from the employee's physician or other health care professional verifying that the employee is at an increased risk of severe illness from COVID-19.

(h)(1) – Ventilation

The Proposed Permanent Rule would require employers to evaluate whether the current ventilation at indoor workplaces is adequate by "review[ing] CDPH and the Division guidance." As discussed above, any requirement for employers to review and/or act upon agency guidance is unenforceable as an underground regulation and should be removed.

Nonetheless, many employers do not own the facilities where they conduct business as they are tenants or their employees are visiting locations operated by third parties. In those circumstances, employers may have no operational control over the ventilation system or access to information with which to evaluate the adequacy of the ventilation system. Specifically, some Coalition Members are subcontractors working at numerous indoor jobsites in the construction industry where it is often challenging, if not impossible, for the subcontractor to evaluate or ascertain the airflow. This information is usually only available to the controlling entity or the landlord. Therefore, we urge the Board to recognize a feasibility exception to the proposed requirement for employers to implement ventilation changes.

Our Coalition's Proposed Regulatory Text

(h)(1) For indoor workplaces, employers shall ~~review CDPH and Cal/OSHA guidance regarding ventilation including the Interim Guidance for Ventilation Filtration, and Air Quality for Indoor Environments,~~ evaluate whether current ventilation is adequate to reduce the risk of transmission if a COVID-19 case enters the workplace, and where it is not adequate, implement changes as necessary and feasible. In addition to using other methods, the employer may take on ore more of the following actions to improve ventilation….

(j)(3) – Retention Periods

Our Coalition endorses the clarification of retention periods under subsection (j)(3) for any records required to be preserved under this Rule, although we recommend an even shorter preservation period tied more directly to the potential for enforcement under the rule – *i.e.*, one year. Such a requirement would be consistent with the retention period under Cal/OSHA's IIPP Standard (Sec. 3203(b)). We also recommend clarifying that the 30-plus year retention period for employee medical records under Section 3204 does not apply.

Our Coalition's Proposed Regulatory Text

(3) Employers shall retain documents required to be preserved pursuant to this rule for at least one year. These documents are not employee medical records pursuant to Section 3204. ~~the notices required by subsection (e) in accordance with Labor Code section 6409.6(k) or any successor law.~~

§ 3205.1– COVID-19 OUTBREAKS

The outbreak provisions – which have created substantial, ongoing burdens for employers through a myriad of compliance measures – have significantly diminished relevance as COVID-19 becomes an endemic illness. There is no coherent rationale for outbreak provisions at this stage where the community has achieved some level of immunity from the virus due to prior infection and/or vaccination, as supported by the statistics on COVID-19 hospitalization and fatality rates cited above.

Our Coalition Members have spent considerable time and money on compliance measures for situations where all or most of the positive cases were the result of community spread rather than a workplace outbreak. Given that the compliance burden outweighs any measurable benefit, Coalition Members urge the Board to remove the outbreak provisions from the Proposed Permanent Rule. We believe a more effective, tailored approach is for CDPH to issue public health orders when there are high hospitalization rates associated with COVID-19, rather than relying on written-in-stone "outbreak" provisions applying to *all employers at all times.* The Board has recognized as much in stating, in its Informative Digest of Proposed Action/Policy Statement Overview, that CDPH can issue formal mandatory orders that are enforceable by the Division.

If outbreak mandates are to remain in effect, however, certainly they should have some epidemiological link to the workplace. It continues to be bizarre and inappropriate to characterize a workplace as experiencing (or causing) an outbreak when no transmission has occurred in the workplace. Of course, the first case will always come from outside the workplace, but for any environment to be considered to be experiencing an outbreak, scientific assessments look for growth in cases in that environment because of that environment. If the cases happen to be in the same exposed group but have had no

connection with each other, and where there is evidence that the employees were exposed outside the workplace (family gathering; family member diagnosed with COVID-19, etc.), this situation should not constitute an "outbreak," as there is no epidemiological link between the cases.

In its previous definition of "outbreak" for workplaces, CDPH informed local health departments that an outbreak consists of "[a]t least three probable or confirmed COVID-19 cases[] within a 14-day period in people ***who are epidemiologically-linked***[] in the setting, are from different households, and are not identified as close contacts[] of each other in any other case investigation."[7] CDPH included in a footnote that **"[e]pidemiologically-linked cases** include persons with close contact[] with a confirmed or probable case of COVID-19 disease; OR a member of a risk cohort as defined by public health authorities during an outbreak. This includes persons with identifiable connections to each other such as sharing a defined physical space; e.g., in an office, facility section or gathering, indicating a higher likelihood of linked spread of disease than sporadic community incidence."[8]

The whole concept of an outbreak at work is that the virus is being spread among co-workers. Obvious coincidental cases should not implicate an employer; to require anything less essentially substitutes the employer for the local public health authority in managing community spread. Likewise, extending the duration of an outbreak should also be limited to only epidemiologically linked cases. If an employer has completely eliminated workplace spread of the virus, but an employee, who happens to be in the same exposed group contracts COVID-19 at a personal holiday gathering, it does not follow that the workplace is still experiencing an outbreak.

In addition to requiring an epidemiological link (*i.e.*, work-relatedness), the numeric threshold for triggering the outbreak should be increased along with the requirement that there be "no new COVID-19 cases" detected in the exposed group to end the outbreak. Particularly during periods of high community spread, this can place an employer on a perpetual outbreak cycle once an outbreak is triggered. Coalition Members have developed robust measures to prevent the spread of COVID-19 in their workplaces only to be required to comply with various additional mandates for an infection that occurred outside of the workplace.

Lastly, we urge you to move the ventilation requirements under subjection (f) to the major outbreak section since the threshold triggering a simple outbreak is so low, *i.e.*, only 3 employees, and can include 100% of cases having no connection to the workplace. Thus, it is not reasonable to require costly ventilation updates when there are few cases and no evidence of transmission within the workplace.

[7] CDPH "Non-Healthcare Congregate Facilities COVID-19 Outbreak Definitions and Reporting Guidance for Local Health Departments" (Oct. 13, 2020) (emphasis added).
[8] *Id.* (emphasis added).

Our Coalition's Proposed Regulatory Text

3205.1
(a)(1) This section applies to a workplace covered by section 3205 if seven ~~three~~ or more work-related employee COVID-19 cases within an exposed group, as defined by section 3205(b), visited the workplace during the infectious period at any time during a 14-day period, unless a CDPH order or regulation defines outbreak using a different number of COVID-19 cases and/or a different time period, in which case this section applies when the number of cases at the worksite constitutes an outbreak under CDPH's definition.

(a)(2) This section shall apply until there are three or fewer ~~no~~ new COVID-19 cases detected in the exposed group for a 14-day period.

(f) [Move ventilation requirements under subsection (f) to subsection (g), as a subpart for major outbreaks.]

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On behalf of the *California Employers COVID-19 Prevention Coalition*, thank you for the opportunity to share these comments and recommendations.

Sincerely,

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Counsel to the California Employers COVID-19 Prevention Coalition

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