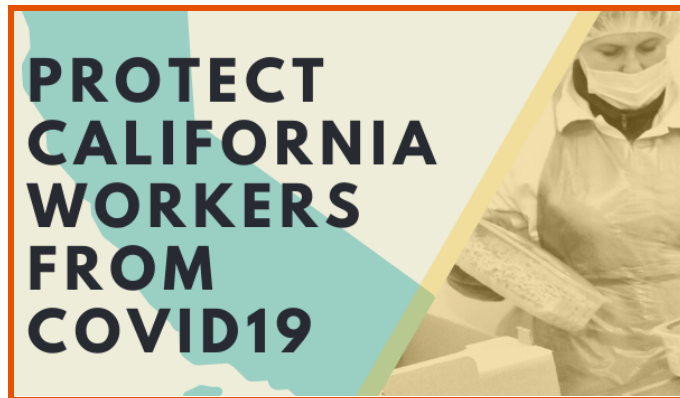


COVID Emergency Standard - Frequently Asked Questions



I. Overview

California workers and advocates are calling upon [Cal/OSHA](#) to develop stronger rules to protect us from COVID-19 in the workplace. Specifically, we submitted [Petition 583](#) to urge the [Standards Board](#) to develop an [emergency temporary standard](#) (ETS) tailored to COVID-19 hazards. We are seeking stronger protections for:

- Those currently working as "essential" workers
- Those who are working but not deemed essential workers
- Those working because they must work to support their families
- Those working because if they refuse unsafe work they will suffer retaliation
- Those who will fearfully be returning to work as the economy continues to reopen.

We created this FAQ document to help people understand the problems, solutions, and stakes. Scroll to the end to learn about [ways to get involved](#) and view a [glossary of helpful terms](#). Please [contact Worksafe](#) if you have additional questions about the campaign that are not covered here. We hope that you will read, share, and get involved. **Thank you!**

II. Frequently Asked Questions

Q: What is the connection between the pandemic and California workplaces?

As of November 1, there have been **951,500 confirmed cases** of coronavirus in California, and more than **17,800 deaths** ([source](#)). According to [Cal/OSHA](#), COVID-19 "has killed hundreds of workers in California and sickened thousands, and workers will continue to become ill and die until the pandemic subsides. COVID-19 is an occupational health emergency causing more deaths in less time than any other workplace crisis in the nearly fifty-year existence of Cal/OSHA" ([source](#)). And the impact has been unevenly distributed, with low-income workers, immigrants, and workers of color bearing the brunt.

Q: What are some examples of COVID spreading in workplaces?

Reports of workplace outbreaks emerge nearly every day — and not just in health care settings. Poultry processing, food processing, agriculture, garment manufacturing, warehousing, public transportation, and retail stores have also been hit especially hard. Here are a few examples from around the state:

- [Foster Farms in Livingston](#)
- [McDonalds throughout CA](#)
- [LA Apparel in Los Angeles](#)
- [Ralphs in Hollywood](#)
- [Harris Ranch in Selma](#)
- [Farmer John in Vernon](#)

Q: What is a Cal/OSHA Emergency Temporary Standard (ETS)?

A [standard](#) is a rule about workplace health and safety that employers must follow. It typically takes several years for Cal/OSHA to develop a new rule. In especially urgent or hazardous situations, the Standards Board is authorized to expedite the rulemaking process by passing an [emergency temporary standard](#). That's what our [petition](#) is asking them to do in order to address COVID hazards.

Q: Why do we need an Emergency Standard for COVID-19?

California has an existing workplace rule (called the [ATD standard](#)) designed to protect health care workers from infectious diseases like COVID, but it does not cover millions of people who work in other industries. That's why we need a [standard](#) that is tailored to protect these workers from COVID-19 hazards. These workers deserve clear, strong, enforceable protections. And their employers need clear rules to help them prevent COVID from spreading in their establishments.

An emergency standard would give employers some flexibility to develop site-specific approaches to protect workers in their workplaces (performance based regulation). It would also include some specific baselines that every workplace must have (specification regulation).

Q: Why is the existing guidance insufficient to protect workers during this crisis?

[Cal/OSHA](#) and the State of California have published [guidance documents](#) for employers. But the guidance documents, while technically enforceable by Cal/OSHA, do not have the same force of law as a [standard](#) because they did not go through a rulemaking process by the [Standards Board](#). A standard would give Cal/OSHA a more powerful tool to enforce the rules and hold employers accountable.

In addition to the Cal/OSHA documents, other organizations (like health departments, professional associations, etc.) are also putting out guidance — and we've heard employers express confusion. A Cal/OSHA standard would build on the guidance documents to clarify minimum enforceable expectations for employers to follow.

Q: Aren't there existing rules that address hazards like COVID?

Yes and no. Cal/OSHA has standards that responsible employers will follow to prevent injury and illnesses. These include the [Injury and Illness Prevention Program](#) standard and other rules about respiratory protection programs, personal protective equipment, and worksite sanitation. **But none of these existing standards include specific preventive measures for COVID.**

According to Cal/OSHA itself: "While these general provisions provide Cal/OSHA a regulatory basis for requiring employers to take measures to protect workers from COVID-19, Cal/OSHA's enforcement efforts could be streamlined and strengthened through regulatory mandates specific to preventing the spread of infectious diseases." ([source](#))

Q: Would an Emergency Temporary Standard interfere with Cal/OSHA's current enforcement activities?

No. A COVID-specific standard would actually help Cal/OSHA conduct workplace inspections and penalize employers who are breaking the law. As stated above, the enforcement branch of Cal/OSHA [supports](#) the creation of an emergency standard. They say, "Cal/OSHA's enforcement efforts could be streamlined and strengthened through regulatory mandates specific to preventing the spread of infectious diseases."

Q: I heard most employers are doing everything they can to address COVID, so why add more rules?

Cal/OSHA has worked hard to issue [guidance documents](#) to help responsible employers in affected industries who are willing to take specific actions to prevent the spread of COVID. But not all employers are responsible, and employers across many industries are not following the guidance or the applicable standards. Cal/OSHA has received an unprecedented number of complaints from thousands of workers about COVID hazards. Based on these complaints, as well as many news reports, it is clear that too many employers are ignoring Cal/OSHA guidance.

Q: My employer probably won't comply with new health and safety rules anyway, so why bother?

We need a mandatory standard which specifically covers COVID hazards to convince reluctant employers to take appropriate action to protect workers and the public. The standard will also help unions and individual workers who need to [refuse unsafe work](#). Having clear rules will help workers make those tough decisions between their lives and their livelihoods.

Q: Who supports this idea?

Cal/OSHA itself supports the creation of an ETS for COVID-19. In their [analysis of the petition](#), they clearly state their support and say:

Cal/OSHA recommends that the Standards Board grant the petition, in part, by requesting Cal/OSHA to develop a proposed emergency temporary standard for the consideration of the

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Standards Board. The Board should also request Cal/OSHA to convene a future advisory committee to determine whether a permanent regulation should be promulgated.

In addition, a broad coalition of occupational health and safety organizations, labor unions, worker centers, community groups, and environmental organizations are actively supporting this campaign. [Check out the full list here.](#)

Q: Okay, but what is the bigger picture here?

Cal/OSHA urgently needs tools to engage in effective inspections and enforcement. California workers need enforceable rules to keep our employers accountable and our workplaces safe. If businesses are ignoring regulations and endangering workers, or are unable to operate their business consistent with public health requirements, they must be confronted and penalized.

III. Getting Involved

Q: What is the timeline for this?

- 05/20/20: Worksafe and the National Lawyers Guild filed [Petition 583](#), kicking off the campaign.
- 07/30/20: Cal/OSHA completed their [analysis and recommendation in favor](#) of the petition.
- 08/10/20: Standards Board staff completed their [analysis and recommendation against](#) it.
- 09/17/20: The Standards Board voted to grant the petition at their meeting.
- 11/19/20: The Standards Board will consider a draft ETS for approval at their meeting.

Q: How can the public provide input?

Send Written Comments to the Standards Board

Send your comments by **Wednesday, November 18** so Board Members can see your comment before the meeting. Email your comments to the Standards Board at OSHSB@dir.ca.gov urging them to approve the draft ETS. [Click here](#) to view tips for public comment.

Speak Up at the Standards Board Meeting

Join the online meeting at **10am on Thursday, November 19** and make a statement during the public comment period. Here is the [meeting notice](#), including instructions on how to participate. [Click here](#) to view tips for public comment.

IV. Key Terms

Aerosol Transmissible Diseases (ATD) Standard

California passed the Aerosol Transmissible Diseases (ATD) Standard in 2009. It applies to health care facilities like hospitals, nursing homes, and emergency medical services. It establishes a framework for

protecting health care workers and patients, specifies the layers of protection needed to protect staff, and stipulates the need to plan for 'surge' situations. You can read the [text of the standard here](#).

Cal/OSHA

"Cal/OSHA is the California state program responsible for protecting the health and safety of workers. Cal/OSHA makes sure that employers follow occupational safety and health regulations and keep the workplace safe. Almost all workers in California are protected by Cal/OSHA regulations [which are] often called standards" ([source](#)).

Standard

"Standards [...] describe what employers must do to protect workers from various workplace hazards. Some standards are general and apply to nearly all workplaces, such as the Injury and Illness Prevention Program standard and the Hazard Communication standard. Other standards are about specific hazards found only in some workplaces, such as the Lead, Asbestos, and Fall Protection standards. Specific standards set out detailed rules that must be followed or minimum levels of protection that must be achieved for a particular hazard" ([source](#)).

Emergency Temporary Standard

To address especially urgent or hazardous workplace situations, the Standards Board is authorized to expedite the rulemaking process by passing an emergency temporary standard. Here is a [flowchart](#) that explains the Emergency Standards Rulemaking Process.

Guidance Documents

"Cal/OSHA and other state agencies have developed guidance on the steps every business should take to reduce the risk of COVID-19 at work. Cal/OSHA recommends employers review the guidance relevant to their worksites, county variance guidance and criteria, along with the guidance on Cal/OSHA requirements below and their existing safety procedures to ensure the workplace is protected from the spread of COVID-19" ([source](#)).

Occupational Safety and Health Standards Board

The Standards Board is the standards setting agency within the Cal/OSHA Program. The Standards Board is the only agency in the state authorized to adopt, amend, or repeal occupational safety and health standards or orders. The Board has seven members appointed by the Governor. Two members are selected from labor, two members from management, one member from occupational safety, one member from occupational health, and one member from the general public.

Petition

"The Board is required to hold open public meetings at least monthly and to permit any person to address the Board on any matters of occupational safety or health or to propose new or revised standards. Petitions for standard changes will be evaluated by the Division of Occupational Safety and Health. The Board will report its decision no later than six months following receipt of a petition" ([source](#)). The petition we submitted is called Petition 538, and [you can read it here](#).

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For more information visit <https://worksafe.org/covid/action.html>