

New Bay Area Shelter-in-Place Orders Allow for the Resumption of Environmental Site Remediation and Agricultural Operations

Key Points

- The Bay Area's new Shelter-in-Place Orders (issued on April 29, 2020) allow for the resumption of outdoor businesses where operations allow for the maintenance of social distancing of 6 feet between all persons
- All businesses currently operating in the Bay Area must prepare, post, implement, and distribute to all personnel a Social Distancing Protocol

The Bay Area counties of Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara, and the City of Berkeley have jointly issued [new Shelter-in-Place orders](#) superseding their existing March 31, 2020 Shelter-in-Place orders. These new orders, effective at 11:59 on May 3, 2020 allow for the resumption of certain business activities,¹ including outdoor environmental site remediation and outdoor agricultural operations, in light of the regional progress achieved in slowing the spread of COVID-19 in the Bay Area.

The new Order allows "Outdoor Businesses," meaning businesses that normally operated outdoors prior to March 16, 2020, and where operations allow for the maintenance of social distancing of 6 feet between all persons, to resume operations as early as Monday, May 4, albeit with defined Social Distancing Protocols. "Outdoor Businesses" encompass both service providers that provide outdoor services, such as environmental site remediation or landscaping businesses, as well as businesses that are primarily conducted outdoors, such as agricultural operations and wholesale and retail plant nurseries.

Furthermore, any businesses that operate in the counties must prepare or update², post, implement, and distribute to all personnel a Social Distancing Protocol for each facility that will be frequented by personnel or the public. The Social Distancing Protocol must at least address the following:³

- Limiting on the number of personnel and public allowed in the facility or operation to maintain a minimum of six feet of distance between people at all times, except as required to complete "Essential Business" activity;
- Posting a sign at the entrance of the facility or operation



by Davina Pujari & Niran S. Somasundaram



informing personnel and the public that they should avoid entering the area if they have any COVID-19 symptoms; maintain a minimum six-foot distance from one another; sneeze and cough into one's elbow; and not to shake hands or engage in any unnecessary physical contact;

- Requiring and ensuring that individuals entering the facility or operation wear face coverings;
- Providing hand sanitizer, soap and water, or effective disinfectant at or near the entrance of the facility or operation and in other appropriate areas for use by personnel and the public;
- Regularly disinfecting high-touch surfaces;
- Where lines form at the facility or operation, marking six foot increments to establish where individuals should stand to maintain social distancing;
- Providing for contactless payment systems, or if not feasible, providing for the disinfecting of payment areas after each use.

Any business seeking to resume operations that includes both "Outdoor Business" components alongside other business components at their facility or operation must, to the extent feasible, scale down business operations to the Outdoor Business components only. All Outdoor Businesses must conduct all business and transactions involving members of the public outdoors.

Bay Area Health Departments and Officers will continue to monitor COVID-19 indicators and developments to determine whether modifications to the Order are justified.

If you have any questions about environmental law during the COVID-19 outbreak, or environmental law in general, please reach out to one of [Hanson Bridgett's Environmental Lawyers](#).

¹ The Order also allows for the continued operation of "Essential Businesses" and "Essential Infrastructure" as covered by the previous Shelter in Place order, including utilities (water, sewer, gas, and electrical), oil refining, roads and highways, public and solid waste facilities (including collection, removal, disposal, recycling, processing facilities), and food cultivation (including farming, livestock, and fishing).

² All "Essential Businesses" and "Essential Infrastructure" operating under the previous Shelter in Place order must also ensure that their Social Distancing Protocol conforms with the requirements of the new Shelter in Place orders.

³ For sample Social Distancing Protocol framework and checklist, see [here](#)

For more information, please contact:

Davina Pujari, Partner
415-995-5077
dpujari@hansonbridgett.com

Niran S. Somasundaram, Associate
(415) 995-5872
NSomasundaram@hansonbridgett.com