

The following reflect questions commonly asked by UCON members.
This guide is not intended to be a complete list or legal advice.

For more information and resources:

- Review the [Cal/OSHA Emergency Temporary Standards \(ETS\) FAQ page](#), along with the [Cal/OSHA COVID-19 ETS landing page](#).
- Check the [UCON COVID-19 Resources Page](#).
- Visit the website of the [California Department of Public Health \(CDPH\)](#).
- UCON is here for our members. Contact us for assistance at (925) 855-7900 or memberinfo@unitedcontractors.org.

EMERGENCY TEMPORARY STANDARDS (ETS) APPLICATION AND ENFORCEMENT**1. Who do the ETS apply to?**

They apply to all California employers, employees, and places of employment with only three exceptions:

- Workplaces where there is only one employee who does not have contact with other people
- Employees who are working from home
- Employees who are covered by the [Aerosol Transmissible Diseases](#) regulation

[[Cal/OSHA COVID-19 ETS FAQ](#), Scope of Coverage - Question #1]

2. Will Cal/OSHA cite our company if we have difficulty following all the rules in the ETS?

Cal/OSHA expects employers to make good faith efforts to comply and will be taking that into consideration before issuing any citations. Additionally, monetary penalties will not be levied for citations through February 1, 2021 that are issued based on violations of the ETS that would not have otherwise been considered violations of other Cal/OSHA standards prior to November 30, 2020. However, this will not apply if the employer refuses to abate an ETS violation identified by Cal/OSHA or in the case of imminent hazards.

[[Cal/OSHA COVID-19 ETS FAQ](#), Enforcement]

NOTE: Employers experiencing difficulties locating sufficient testing supplies or finding medical facilities where their employees can get prompt testing to comply with the ETS should document their situations and forward that information to rs@dir.ca.gov

3. What are the basic elements of the written program required for employers?

Employers covered by the ETS **must have a written program** that includes the following elements (which are all contained within the template [UCON/Littler Master COVID-19 Prevention Plan IIPP](#)):

1. Communication to employees about the employer's COVID-19 prevention program
2. Identification, evaluation, and correction of COVID-19 hazards
3. Physical distancing of a least six feet unless it is not possible
4. Use of face coverings
5. Use of engineering controls, administrative controls, and personal protective equipment as required to reduce transmission risk
6. Providing COVID-19 training to employees

7. Providing testing to employees who are exposed to a COVID-19 case; in the case of multiple infections or a major outbreak, implementing regular workplace testing for employees in the exposed work areas
8. Exclusion of COVID-19 cases and exposed employees from the workplace until they are no longer an infection risk
9. Maintaining records of COVID-19 cases and reporting serious illnesses and multiple cases to Cal/OSHA and the local health department, as required

TESTING/QUARANTINING

4. What guidelines should we follow for days quarantining for asymptomatic cases?

The ETS were revised to follow [CDPH's recommendations](#) for quarantine and isolation to align with the new CDC guidelines. These guidelines shorten the Cal/OSHA quarantine period for close contacts from 14 days to 10 days with or without testing. Effectively, an employee under quarantine who has shown no symptoms of COVID-19 can return at 10 days if they continue to monitor for symptoms, wear a mask, and observe other appropriate safety practices.

IMPORTANT NOTE: The ETS do not allow construction employers to shorten the quarantine period to 7 days with a negative test obtained after day 5; this ONLY applies to employees in the health care, emergency response and social service fields.

5. What is an employer's obligation if an employee refuses to be tested for COVID-19?

The employer's disciplinary program should be utilized. Your COVID-19 Prevention Program is an integral part of your Injury and Illness Prevention Program (IIPP), and an employee's refusal to comply with its requirements should be addressed accordingly. The issue is not one of beliefs or personal preference; it is a safety requirement like any other one implemented by your organization.

6. Can a contractor meet the testing requirement by directing employees to get tested at a public or healthcare provider facility versus having it conducted at the jobsite by a qualified vendor?

A contractor would be in compliance with this particular section under either scenario.

7. If an employee tests negative before the expiration of the quarantine period, may they return to work?

According to Section 3205.1(b)(2)(A), "Negative COVID-19 test results of employees with COVID-19 exposure shall not impact the duration of any quarantine period required by or orders issued by the local health department."

8. Who pays for testing and re-testing when the employee is out on the 10 days leave?

COVID-19 testing shall be provided at no cost to employees during employees' working hours. Note that "during working hours" means that they need to be paid for time and travel expenses for testing, not that the testing must be done during the employee's normal working hours.

[\[Cal/OSHA COVID-19 ETS FAQ, Testing - Question #6\]](#)

9. Does Cal/OSHA specify what tests are required before returning to work – antigen versus molecular/PCR?

According to Cal/OSHA, "Employers may use any COVID-19 diagnostic test that has FDA approval or an emergency use authorization from FDA to determine an existing infection. It does not matter if it is a PCR or antigen test."

10. **If an employee receives testing through a healthcare provide such as Kaiser, and the employer pays the deductible, would the employer be in compliance with the requirement to provide testing at no cost to the employee?**
Yes.
11. **The new Cal/OSHA regulation seems to be silent on how employers handle employees that report symptoms (and stay home for a number of days) but have had no known COVID-19 exposure.**
Such an employee should be advised to contact their healthcare provider to discuss their symptoms and then follow the provider's advice. To be paid, they would need to establish worksite COVID-19 exposure.
12. **Is body temperature screening now required?**
No.
13. **What is required for the employer to develop and implement a process for screening employees for and responding to employees with COVID-19 symptoms?**
The employer may ask employees to evaluate their own symptoms before reporting to work.
14. **What is the impact of the Santa Clara County Mandatory Travel Directive upon essential critical infrastructure workers?**
According to the directive, Section 3. "Exemptions from Mandatory Quarantine," sub-element c. 'The following persons are required to quarantine, but may leave their home or place of quarantine solely for work: item # I: "Persons traveling solely for the purposes of performing essential critical infrastructure work, as defined by the State Public Health Officer, but only to the extent that the employer determines that it would otherwise lack sufficient staffing to perform such work."
15. **What are the return-to-work isolation requirements if an employee travels out of town in counties other than Santa Clara?**
To determine the requirements in other counties in California, check the [status section](#) in the state Blueprint for a Safer Economy page – enter the county you are searching for under "Find the status for activities in your county."
16. **Do all of the ETS rules apply when the employee's COVID-19 exposure or potential exposure was outside of the workplace?**
While the exclusion pay rule does not apply to an employee who was exposed outside of the workplace, all of the other rules and requirements do – notifications, jobsite exclusion, reporting.
17. **Is there any distinction between an employee being exposed to a positive COVID-19 case and being exposed to somebody else who was exposed?**
Employees exposed to a COVID-19 case and employees who are COVID-19 cases are the only employees that need to be excluded. An employee exposed to someone who was exposed to a COVID-19 case does not need to be excluded unless the person who was exposed tests positive.
18. **What guidelines do we need to follow if an employee who is exposed to a positive COVID-19 case has been vaccinated?**
The CDPH updated their [COVID-19 Public Health Recommendations for Fully Vaccinated People](#) on May 3, 2021, which were then adopted by Cal/OSHA on May 5. Fully vaccinated employees no longer need to quarantine following a workplace exposure to COVID-19 if they are asymptomatic. ("Fully vaccinated" is defined as being at least two weeks past receiving the second dose in a two-dose series of COVID-19 vaccines [Pfizer-BioNTech or Moderna] or past receiving a single-dose vaccine [Johnson & Johnson/Janssen].) For more information on what was updated in the Cal/OSHA FAQ along with guidance on asking employees about their vaccination status, [read this article](#).

19. **Have there been any other changes to the ETS due to more people being vaccinated?**
Not yet. Face covering and testing requirements are still in place.

EXCLUSION PAY

[Cal/OSHA COVID-19 ETS FAQ, Exclusion Pay and Benefits]

20. **Does exclusion pay apply if the jobsite would have been shut down anyway? – work slowdown, rain, holiday, delay, etc.**
No, employees are only owed exclusion pay for days when they would have been working if they had not been excluded.
21. **Does exclusion pay apply if the employee was exposed to COVID-19 outside of work?**
No. However, employers should be sure to document all conversations and information supporting that exposure did not occur at work. Employers are responsible for investigating all claims of workplace exposure and determining whether exposure occurred in the workplace.
22. **Does exclusion pay apply if the employee is actually too sick with COVID-19 to work?**
No. Additionally, if the employee requires a quarantine period beyond the standard 10 days, it could be an indication that they are not “able and available to work” and therefore no longer subject to exclusion pay.
23. **What about if the employee is out on workers’ compensation due to COVID-19, even if they don’t have symptoms that would otherwise prevent them from working?**
If an employee is receiving temporary disability benefits through workers’ compensation, they are not considered to be “able and available to work” and are therefore not eligible for exclusion pay.
24. **How do we pay exclusion pay for union employees?**
The Cal/OSHA ETS FAQ are silent on this. The safest thing to do is to pay full wages and fringes; one union (NorCal Carpenters) has specified full wages plus certain fringes. There are other options depending on the level of risk your company is comfortable with – contact UCON Labor & Member Services to discuss your situation (925-855-7900 or memberinfo@unitedcontractors.org).

TRAINING

25. **What are some ways we can implement the training requirements for superintendents and foremen?**
- In-person training (after pre-shift screening) could be accomplished with social distancing/mask-wearing in corporation yard buildings, warehouses, etc.
 - A Zoom or conference call with leadership, superintendents and foremen could cover the training requirements found in the [UCON/Littler Master COVID-19 Prevention Plan IIPP](#).
 - Webinars are available from Cal/OSHA Consultation Services. Visit [this page](#) for information and to register.