



CAL/OSHA STANDARDS BOARD ADOPTS REVISIONS TO THE COVID-19 EMERGENCY TEMPORARY STANDARDS (ETS)

Vaccinated Workers Can (finally) Go Maskless

June 17, 2021. Today, Cal/OSHA Standards Board adopted revisions to the COVID-19 Emergency Temporary Standards, Title 8, Sections:

3205 - COVID-19 Prevention

3205.1 - Multiple COVID-19 Infections and COVID-19 Outbreaks

3205.2 - Major COVID-19 Outbreaks

3205.3 - COVID 19 Prevention in Employer Provided-Housing

3205.4 - COVID-19 Prevention in Employer-Provided Transportation to and from Work

Per the Governor's **Executive Order**, these changes go into effect immediately. The revisions mark an important milestone for CA employers and workers in moving past COVID and COVID-19 regulations across the state.

KEY CHANGES IN THE REVISED EMERGENCY TEMPORARY STANDARD:

1. **Face Coverings – *Employees who are fully vaccinated will no longer need to wear face coverings.*** Face coverings only need to be provided and worn by employees who are not fully vaccinated when indoors and in vehicles. However, the revised ETS specifically states that employers must allow fully vaccinated employees to wear face coverings without fear of retaliation.
2. **Employers Must Provide Respirators (N95s) for Voluntary Use to Those Who Are Unvaccinated – But Only on Request** - Upon request, employers will be required to provide “respirators” (**N95 masks**) for

voluntary use to all employees who are not fully vaccinated and who are working indoors or in vehicles with more than one person.

Many stakeholders have expressed concern about specifically requiring N95s due to high demand, particularly in the health care industry and for outdoor employees in areas where wildfire smoke is present. Further clarification from Cal/OSHA is anticipated with regard to the time period in which employers must provide such respirators. Importantly, this requirement will go into effect *immediately* as soon as the revised ETS is effective (as opposed to the July 31 deadline previously stated).

3. **Documentation for “Fully Vaccinated”**- Employers will be required to “have documented” that a person is fully vaccinated. Uncertainty remains as to whether this requirement means an employer must review actual vaccine cards or employee or can rely upon self-certification. At such time as Cal/OSHA revises its Frequently Asked Questions document on this ETS, they will provide additional clarification. It is unclear at this time if employers will be required to maintain a copy of the actual vaccine card.
4. **Physical Distancing** – *The revised ETS eliminates physical distancing requirements immediately upon the effective date of the revisions.* Previously proposed revisions would have extended this requirement until July 31. Employers who experience an “outbreak” at their worksite will need to evaluate the need for physical distancing.
5. **Verbal Notification of a COVID-19 Case After Written Notification** – As is currently required, employers must give written notice to employees of a COVID-19 case. The revised ETS now requires that verbal notification be given to employees if the employer reasonably believes that the employee may not have received the written notification or the employee has limited literacy in the language contained in the written notice. Employers with a high percentage of non-English speaking employees may want to provide the initial written notice in the native language of the employee.
6. **Post Exposure and Testing – Certain Exemptions from Exclusion** – Fully vaccinated employees without symptoms will generally no longer need to be excluded from the workplace after exposure to

COVID-19. Employers will no longer need to exclude employees who were in close contact if they had COVID-19 within the last 90 days and have remained symptom-free. An additional exemption will apply to making testing available to employees that are fully vaccinated and asymptomatic or who have had COVID-19 in the last 90 days.

7. **Exclusion Pay – under the revised ETS, employee may bring a wage claim to recover unpaid “continued earnings” when excluded from the workplace. Additionally, employees must be paid their regular rate of pay by the next regular pay day.**
8. **Non-Vaccinated, Symptomatic Employee Testing –** Employers must ensure that COVID-19 testing is available at no cost during paid time to employees with COVID-19 symptoms who are not fully vaccinated.
9. **Outbreak Requirements –** the requirements have been revised when there is an “outbreak” or “major outbreak.”
10. **Employer-Provided Housing or Transportation –** employers providing housing or transportation will have greater flexibility concerning fully vaccinated employees.

Today’s revisions reflect a turning of the page on the pandemic for California. It also marks an important feat for the union construction industry, which has displayed incredible perseverance throughout the pandemic, working safely while overcoming the whiplash of ever-changing rules and regulations. UCON will continue to update members on any relevant regulatory changes and will continue to make our **[COVID-19 Resources Page](#)** available to everyone in the industry.

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Forward

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