

**MINUTES OF THE SPECIAL MEETING OF THE
COAST LABOR RELATIONS COMMITTEE**

Meeting No. 25-22

Time/Date: March 25, 2022

Place: Via Teleconference

Present: For the Union

W. Adams
R. Olvera, Jr.
C. Williams
F. Ponce De Leon

For the Employers

J. McKenna
S. Hennessey
W. Bartelson
M. McKenna
B. Alverson
M. Hall
C. Shaw

Also Present: K. Donovan

CalOSHA COVID-19 Emergency Temporary Standard

The CLRC met to review the Cal/OSHA COVID-19 Emergency Temporary Standard (ETS) and CLRC Mtg. Nos. 01-21 and 59-20.

The Employers stated that the Cal/OSHA COVID-19 ETS requires each terminal/facility to have their own specific plan and that the relevant CLRC agreements can be incorporated into each plan.

The Union stated that the Cal/OSHA COVID-19 ETS should be applied to the single, coastwise ILWU-PMA bargaining unit and that PMA and its member companies are jointly responsible for adherence to the ETS, which went into effect on November 30, 2020.

The following requirements of the ETS are updated to reflect changes to the Cal/OSHA ETS effective January 14, 2022.

1. **COVID-19 Testing:** COVID-19 testing is provided for by the Employers to workers at no cost during compensable working hours, as one-time testing in the event of COVID-19 work-related exposure, and periodic testing for all workers in an “exposed workplace”¹ during an “outbreak”² as defined by the ETS, with the exception for those workers

¹ An “exposed workplace” is a work location, working area, or common area used or accessed by a “COVID-19 case” during the high-risk period, including bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. A “COVID-19 case” is a person who: (1) has a positive “COVID-19 test”; (2) is subject to COVID-19-related order to isolate issued by a local or state health official; or (3) has died due to COVID-19, in the determination of a local health department or per inclusion in the COVID-19 statistics of a county. Areas where masked workers momentarily pass through the same space without interacting or congregating do not constitute an exposed workplace under the ETS.

² An “outbreak” is three or more COVID-19 cases in an exposed workplace within a 14-day period or an outbreak as identified by a local health department. The ETS also differentiates between “outbreaks” and “major outbreaks” (20

previously excluded from the workplace within the last 90 days who tested positive in that prior instance for COVID-19 but were asymptomatic following the workplace exposure.

2. **Exclusion from the Workplace:** Exclusion from the workplace is required when a worker tests positive for COVID-19, receives a diagnosis of COVID-19 or, if unvaccinated, has had a COVID-19 exposure.
3. **Workplace Exclusion Pay:** In accordance with the Return to Work criteria below, workers with COVID-19 workplace exposure³ may maintain pay and benefits during the exclusion period.⁴ The requirement to maintain pay and benefits exists in situations in which a worker is excluded but otherwise able and available to work, and the requirement does not apply where it can be demonstrated that the COVID-19 exposure is not work related or where the worker received disability payments during the exclusion period.⁵
4. **Return to Work Criteria⁶:**

COVID-19 Symptoms: Any worker who develops symptoms of COVID-19 can return to work after five days if symptoms are resolving and they submit a negative test on day five or later. Workers who cannot test or decline to test may return to the workplace after day 10 days provided that they do not have a fever of 100.4 or higher and symptoms are resolving. Workers must wear a face covering at all times for no less than 10 days after the onset of symptoms. If an order to isolate, quarantine, or exclude a worker has been issued by a state or local health official, the worker can only return to work as indicated on that order.

COVID-19 Positive: Workers who test positive for COVID-19 may return to work after five days if symptoms are not present or resolving and if the worker submits a negative test taken on or after day five. Workers who cannot test or decline to test may return to the

or more COVID-19 cases in an exposed workplace within a 30-day period) and mandates different levels of testing in both settings.

³ “COVID-19 exposure” means 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 “high-risk exposure period”. “High-risk exposure period” for COVID symptomatic cases is two days before symptoms develop until it has been 10 days since symptoms first appeared, 24 hours have passed without fever, and symptoms have improved. “High-risk exposure period” for asymptomatic COVID cases is from two days before until 10 days after the first positive test was performed. This definition applies regardless of the use of face coverings.

⁴ This category of leave is available on the Dockworker Self-Service Portal for a worker to seek the maintenance of pay and benefits when the worker is excluded from the workplace under these circumstances.

⁵ If an excluded worker becomes sick with COVID-19 (e.g., someone who has tested positive and/or is symptomatic), they may seek paid leave under CLRC Mtg. No. 24-22, Item 3(i) (“Testing positive for COVID-19, with supporting documentation”) and/or Item 3(iv) (“Experiencing symptoms of COVID-19, and seeking medical diagnosis, with supporting documentation”).

⁶ The Return to Work Criteria is based on isolation and quarantine recommendations from the California Department of Public Health issued January 6, 2022.

workplace after day 10 provided that they do not have a fever of 100.4F or higher and symptoms are resolving. Workers must wear a face covering at all times for no less than 10 days after a positive test.

COVID-19 Exposure for Unvaccinated Workers: Unvaccinated workers exposed to COVID-19 may return to work after five days if they obtain a negative test result collected on or after day five of the exposure and lack symptoms. Workers who cannot test or decline to test can return to work after day 10. Workers must wear a face covering at all times for no less than 10 days after the exposure.

COVID-19 Exposure for Vaccinated Workers (Not Yet Booster Eligible): Vaccinated workers, if exposed to COVID-19, are not subject to workplace exclusion, and may continue to work provided they have no symptoms. Vaccinated workers who continue to work after an exposure must wear a face covering at all times and maintain six feet of distance for no less than 14 days after the exposure. Vaccinated workers who elect to test on day five after the exposure and produce a negative result can continue to work without the aforementioned restriction.

COVID-19 Exposure for Boosted Workers: Vaccinated workers, if exposed to COVID-19, are not subject to workplace exclusion, and may continue to work provided they have no symptoms. Vaccinated workers who continue to work after an exposure must wear a face covering at all times and maintain six feet of distance for no less than 14 days after the exposure. Vaccinated workers who elect to test on day five after the exposure and produce a negative result can continue to work without the aforementioned restriction.

COVID-19 Exposure for Vaccinated Workers (Booster Eligible but Not Yet Boosted): Booster eligible workers who are not yet boosted and exposed to COVID-19 may return to work after five days if they obtain a negative test result collected on or after day five of the exposure and lack symptoms. Workers who cannot test or decline to test can return to work after day 10. Workers must wear a face covering at all times for no less than 10 days after the exposure.

5. **Screening:** The process for screening employees for and responding to employees with COVID-19 symptoms will continue. The ETS permits workers to conduct a self-assessment for the presence of COVID-19 symptoms.⁷ Accordingly, the CLRC agreed to continue use of the attached COVID-19 Daily Checklist.
6. **Face Coverings:** Workers must continue to wear face coverings consistent with Cal/OSHA ETS requirements in higher risk settings. In addition to the face covering requirements identified in No. 4 above, an approved face covering will continue to be required, regardless of vaccination status, when: (1) inside employer-provided shared transportation, such as shuttle buses and Ro-Ro transport vans; (2) during COVID worksite outbreaks; and, (3) at transportation hubs, such as cruise terminals.

⁷ The self-assessment requirement, as with any other aspect of the ETS regulation, may be insufficient in some geographic areas where other regulations create higher standards – such as in Los Angeles, for example, where the Los Angeles County Health Department is currently requiring an in person, interactive symptoms check prior to the start of work.