

Occupational Safety and Health Standards Board Delays Consideration of Proposed Amendments to the Cal/OSHA COVID-19 Regulations



On May 20, the Occupational Safety and Health Standards Board (OSHSB) met to consider [proposed amendments](#) to and re-adoption of the Emergency Temporary Standards (ETS or Cal/OSHA COVID-19 Regulations)[1]. Rather than amend or re-adopt the regulations, the OSHSB, at the request of staff from the Division of Occupational Safety and Health (Cal/OSHA or Division), delayed action on the regulations to a special meeting scheduled for June 3, 2021.

Cal/OSHA staff [requested the continuance](#) in order for the Division to prepare new proposed amendments to the Cal/OSHA COVID-19 Regulations that would take into account the [Centers for Disease Control and Prevention \(CDC\) May 13 guidance](#) for "fully vaccinated"[2] people. That guidance provides that "fully vaccinated" people "no longer need to wear a mask or physically distance in any setting, except where required by federal, state, [or] local ... laws, rules and regulations, including local business and workplace guidance." [3] In its request for continuance, Cal/OSHA staff indicated that it would limit "any potential changes to [the proposed amendments to] consideration of the recent [CDC] guidance, in order to make possible a targeted effective date of June 15, 2021." [4]

Liebert Cassidy Whitmore attorneys are closely monitoring the proposed amendments to the Cal/OSHA COVID-19 Regulations and actions of the OSHSB. We will be providing additional updates on the regulatory actions undertaken by the OSHSB following the June 3 special meeting.

Liebert Cassidy Whitmore will also be updating its model COVID-19 Prevention Program (CPP) template to conform to and comply with and amendments to the Cal/OSHA COVID-19 Regulations, and will be making such template available after the OSHSB takes final action on the re-adoption of the amended regulations.

[1] 8 C.C.R. §§ 3205-3205.4.

[2] The CDC considers people to be fully vaccinated for COVID-19 two (2) or more weeks after they have received the second dose in a 2-dose series (*e.g.*, Pfizer-BioNTech or Moderna), or two (2) or more weeks after they have received a single-dose vaccine (*e.g.*, Johnson & Johnson). (See CDC "Interim Public Health Recommendations for Fully Vaccinated People", Overview, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html> (Last updated May 13, 2021.)

[3] See CDC "Interim Public Health Recommendations for Fully Vaccinated People", Summary of Recent Changes, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html> (Last updated May 13, 2021.)

[4] See Eric Berg "Memorandum re: COVID-19 Prevention Emergency Regulations Set for Re-Adoption at May 20, 2021 Business Meeting",

<https://www.dir.ca.gov/oshsb/documents/DOSH-Memorandum.pdf> (May 19, 2021.)

The June 15, 2021 date is the date on which Governor Newsom indicated that the State would lift COVID-19 restrictions. (See California Department of Public Health ("CDPH") "Beyond the Blueprint for a Safer Economy,

https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/beyond_memo.aspx (Last updated April 6, 2021.)