

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

Meeting No. 44-22

Time/Date: July 6, 2022

Place: Via Teleconference

Present:	<u>For the Union</u>	<u>For the Employers</u>
	W. Adams	J. McKenna
	R. Olvera, Jr.	S. Hennessey
	C. Williams	W. Bartelson
	F. Ponce De Leon	M. McKenna

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, 59-20, and 25-22.

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 May 6, 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 group”¹ during an “outbreak”² as defined by the ETS, with the exception for those workers 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. COVID-19 testing is available to all symptomatic employees as reflected in CLRC Mtg. 25-22.

¹ An “exposed group” means all employees at a work location, working area, or a common area at work, where an employee “COVID-19 case” was present at any time during the “infectious period.” A “COVID-19 case” is a person who: (1) has a positive COVID-19 test or diagnosis from a licensed health care provider; (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.

² An “outbreak” is three or more COVID-19 cases among employees in an exposed group within a 14-day period or an outbreak as identified by a local health department. A “major outbreak” is 20 or more COVID-19 cases in an exposed group within a 30-day period.

2. **Exclusion from the Workplace:** Exclusion from the workplace is required when a worker tests positive for COVID-19 or, receives a diagnosis of COVID-19.

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 Cases: Any worker who tests positive for COVID-19 or develops symptoms of COVID-19 (a “COVID Case”) can return to work after five days from the date symptoms began or, if no symptoms, from the date of the positive test, provided that they produce a negative test collected on day five or later, do not have a fever of 100.4F or higher, and any symptoms are resolving. Workers must wear a face covering at all times for no less than 10 days after the onset of symptoms or the date of a positive test. If worker is unable to test, the worker shall not work for 10 days after the first initial positive test or onset of symptoms. Workers whose COVID-19 symptoms are not resolving shall not return to work until (1) symptoms are resolving or 10 days have passed since the onset of symptoms and (2) at least 24 hours have passed without fever of 100.4F or higher without the use of fever-reducing medication. In those instances, a face covering shall be worn at all times for no less than 10 days upon return to work.

COVID-19 Exposure Workers with a close contact to a COVID-19 case must test within three to five days following exposure to COVID-19 and may work unless they test positive for COVID-19. Workers are not required to quarantine, but must take a COVID-19 test no more than five days after their last COVID-19 exposure and wear a face covering at all times for no less than 10 days after the exposure to COVID-19. Workers who cannot test or decline to test can return to work after day 10. If COVID-19 symptoms develop, the worker must stay home as indicated above for a COVID Case.

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-

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 “infectious period”. The “infectious period” is, for COVID-19 cases who develop symptoms, from two days before the first development of symptoms until it has been 10 days since symptoms first appeared (or through Days 5-10 if testing negative on Day 5 or later), 24 hours have passed without fever without the use of fever-reducing medications, and symptoms have improved. For COVID-19 cases who are asymptomatic, the infectious period is from two days before until 10 days after the first COVID-19 test was collected (or through Days 5-10 if testing negative on Day 5 or later).

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 April 6, 2022.

assessment for the presence of COVID-19 symptoms.⁷ Accordingly, the CLRC agreed to continue use of the attached COVID-19 Daily Checklist.

Face Coverings: Workers must wear face, 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.

Consistent with Item 1 above, the Employers agreed to provide the Union with its plan for offering COVID-19 testing as required by the ETS.

Consistent with Item 2 above, the Employers recognized there is an obligation under the ETS to maintain the pay and benefits of those excluded from the workplace because of exposure to COVID-19 in the workplace regardless of whether the exposed worker tests positive for COVID-19.

The CLRC agreed to continue to use the jointly approved template notification form covering COVID testing and workplace exclusions.

The CLRC further agreed that the requirements outlined in this set of minutes will apply coastwise, including California, Oregon, and Washington.

The CLRC agreed to the attached Questions and Answers Document on these topics. The CLRC agreed that these minutes will be in effect through December 31, 2022.

Date Signed: 07/06/22

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For the Union:

For the Employers:

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.”