

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-09-21

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS since March 2020, the State has taken decisive and meaningful actions to reduce the spread, and mitigate the impacts, of COVID-19, saving an untold number of lives; and

WHEREAS, on November 20, 2020, the Occupational Safety and Health Standards Board (OSHSB) voted to adopt Emergency Temporary Standards to Protect Workers from COVID-19 (8 C.C.R. §§ 3205, 3205.1, 3205.2, 3205.3, 3205.4), which established various workplace safety requirements for employers related to COVID-19, including requirements for face coverings and physical distancing, and which took effect on November 30, 2020; and

WHEREAS, on December 14, 2020, I issued EO N-84-20, which suspended certain provisions of the Emergency Temporary Standards that were inconsistent with updated public health directives issued by the Department of Public Health on December 14, 2020, to ensure consistency between the public health directives and the Emergency Temporary Standards; and

WHEREAS, on June 9, 2021, the Department of Public Health issued updated public health directives related to physical distancing and face coverings, effective June 15, 2021, based upon guidelines issued by the Centers for Disease Control and Prevention; and

WHEREAS, the Emergency Temporary Standards remain integral to the State's ongoing response to COVID-19 as they afford balanced protections for workers from the spread and impact of COVID-19 as the State continues its progress in moving beyond the pandemic; and

WHEREAS, on June 11, 2021, OSHSB complied with the requirements in Section 11346.1(a)(2) of the Government Code, including noticing the public of the proposed readoption of the Emergency Temporary Standards and changes to align requirements related to physical distancing and face coverings with public health directives; and

WHEREAS, on June 17, 2021, OSHSB voted to readopt the Emergency Temporary Standards, incorporating the changes noticed on June 11, 2021 to align requirements related to physical distancing and face coverings with public health directives that were effective June 15, 2021; and

WHEREAS, Section 11349.6(b) of the Government Code allows the Office of Administrative Law (OAL) up to 10 calendar days to review emergency regulations after they have been submitted to the office; and

WHEREAS, public health directives and the requirements of the Emergency Temporary Standards applicable to workplaces throughout California should be consistent to protect public health, and an extended period of misalignment would likely impose unnecessary burdens on employers, and cause confusion among employers and employees alike, impeding the State's recovery; and

WHEREAS, under the provisions of Government Code section 8571, I find that strict compliance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT the readoption by OSHSB on June 17, 2021 of the Emergency Temporary Standards regarding COVID-19 prevention (OAL Matter No. 2020-1120-01E) shall not be subject to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, except as follows:

- 1) The June 17, 2021 readoption shall be effective upon filing by OAL with the Secretary of State.
- 2) The June 17, 2021 readoption shall be subject to the time period in subdivision (h) of Section 11346.1 of the Government Code, as modified by Paragraph 1 of EO N-40-20, Paragraph 11 of EO N-66-20, Paragraph 9 of EO N-71-20, and Paragraph 10 of EO N-08-21.
- 3) The June 17, 2021 readoption shall be considered the first readoption provided under subdivision (h) of Section 11346.1 of the Government Code.

IT IS FURTHER ORDERED that, as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of June 2021.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, PH.D.
Secretary of State