

ALERT

Moving Toward Reopening: State Releases Guidance



Last Friday, the California Department of Public Health (CDPH) released guidance, including a questions-and-answers webpage, on how businesses may return to “usual operations” starting June 15 with exceptions for indoor and outdoor “mega events.”

But the department also reminded employers that they are subject to the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards (ETS), if applicable to them. Cal/OSHA is revisiting the emergency standards to take into account the revised guidance from the federal Centers for Disease Control and Prevention (CDC) that permits fully vaccinated persons to go without masks in some settings.

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A Cal/OSHA Standards Board vote on a revised emergency standard is expected next week (see story at right).

‘Beyond the Blueprint’

As of June 15, according to the CDPH memo dated May 21, the state will be moving beyond the Blueprint for a Safer Economy introduced last summer to limit transmission of the COVID-19 virus.

Verification of being fully vaccinated or having a negative COVID-19 test will be required before entry for indoor mega events (more than 5,000 attendees) and recommended for outdoor mega events (more than 10,000 attendees).

The mega events will no longer have capacity limitations, and the physical distancing restrictions will be lifted for fully vaccinated attendees, customers and guests.

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Cal/OSHA Delays Vote on COVID-19 Emergency Rule Amendments



Employers will have to wait a little longer to know what is coming for California’s

COVID-19 workplace emergency temporary standard (ETS).

The California Division of Occupational Safety and Health (Cal/OSHA) Standards Board was scheduled to vote on a new proposed text for the ETS on May 20. However, agency staff requested that the Board not vote on the amendments in order to give the Division an opportunity to make it more consistent with recent Centers for Disease Control and Prevention (CDC) guidance.

For context — on May 13, just one week before the Board was set to vote — the CDC updated its guidance to allow fully vaccinated persons to go without masks in some settings.

Next, California Health and Human Services Agency Secretary Dr. Mark Ghaly announced on May 17 that “California plans to implement the CDC’s guidelines around masking to allow fully vaccinated Californians to go without a mask in most indoor settings” starting June 15.

Pointing to these recent developments, Cal/OSHA stated that “it is important to revisit the proposed COVID-19 prevention emergency regulations in light of

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State Sets Up Employer Vaccination Toolkit

LET'S GET TO IMMUNITY.

California has created an Employer Vaccination Toolkit, a website designed to help employers make COVID-19 vaccinations more convenient for their employees.

The website includes links to help employers find local provider partners for scheduling an offsite vaccination event, information on requesting a worksite mobile clinic and vaccine education materials to share with employees.

Employers who seek to vaccinate fewer than 100 employees per event/day

are encouraged to consider partnering with another employer or organization nearby in coordinating the vaccination clinic.

The step-by-step guide for submitting a mobile clinic request includes the infrastructure requirements for a worksite mobile clinic, such as the physical space needed for check-in, screening, registration, waiting, vaccination and post-shot observation areas.

Employers interested in requesting group appointments at nearby providers or setting up a mobile or pop-up vaccination clinic at their workplace must complete an online form to send their request to the California Department of

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Labor Law Corner

Court Ruling on CalSavers Means Employers of 50+ Face Deadline



Bianca Saad
Employment Law
Counsel/Subject
Matter Expert

What is the status of the legal challenge to the CalSavers program? Do employers still need to register?

The Howard Jarvis Taxpayers Association (HJTA) and two of its employees filed an action against the CalSavers Retirement Savings Program (CalSavers) (*HJTA v. Cal. Secure Choice* (9th Cir. 20-15591)), alleging that the federal Employee Retirement Income Security Act (ERISA) preempts CalSavers.

The district court found that ERISA does not preempt the California law which creates CalSavers and dismissed the action. On May 6, 2021, the Ninth Circuit Court of Appeal agreed with the district court's decision.

In its decision, the Ninth Circuit Court of Appeal reasoned that a state-run individual retirement account (IRA) program like CalSavers is not "established or maintained by an employer," such that it would be preempted by ERISA. Employers did not create the CalSavers program, nor do they have any control over how it is operated.

CalSavers Program

CalSavers is a retirement savings program for private sector employees whose employers don't offer a retirement program. More specifically, CalSavers gives employees the opportunity to defer their wages, through payroll deductions by the employer, to a state-managed IRA program.

Private sector employers with at least five California-based employees, at least one of whom is at least 18 years old, and don't sponsor a "qualified retirement" plan, are required to register for CalSavers.

Qualified retirement plans include:

- 403(a) Qualified Annuity Plan or 403(b) Tax-Sheltered Annuity Plan.
- 408(k) Simplified Employee Pension (SEP) plans.
- 408(p) Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) IRA Plan.
- 401(a) Qualified Plan (including profit-sharing plans and defined benefit plans).
- 401(k) plans (including multiple employer plans or pooled employer plans).
- Payroll deduction IRAs with automatic enrollment.

California employers that are not exempt by way of providing a qualified retirement plan are required to register with CalSavers by certain deadlines, based on number of employees.

Employers with more than 100 employees had a registration deadline of September 30, 2020. Employers with more than 50 employees must register by June 30, 2021, and those with five or more employees must register by June 30, 2022.

Exempt employers may, but are not required to, inform the CalSavers Administrator of their exemption.

Within 30 days of registration,

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Labor and Employment

Leaves of Absence: Making Sense of It All. CalChamber. June 10–11, Virtual Seminar. (800) 331-8877.

Workplace Safety Refresher Course for California Employers. CalChamber. June 17, Webinar. (800) 331-8877.

HR Boot Camp Virtual Seminar. CalChamber. June 24–25, Online. (800) 331-8877.

International Trade

Brasil Investment Forum. Apex-Brasil, Interamerican Development Bank, Brazilian Federal Government. May 31–June 1, Online. 55 61 2027-0568.

Foreign Direct Investment Report. World Trade Center Los Angeles (WTCLA). June 2, Webinar. (213) 236-4853.

International Trade Expo. AmCham

Colombia. June 2–3, Virtual. +571 5877828.

Invest in Indonesia: Opportunities in Asia's Economic Powerhouse. Consulate General of Indonesia. June 3, Online. (415) 474-9571.

2021 SelectUSA Investment Summit. International Trade Administration. June 7–11, Online. (800) 424-5249.

2021 Taiwan Trade Shows. Taiwan External Trade Development Council. June 23–October 28. (02) 2725-5200.

Sourcing Taiwan Online-Smart Vehicle Supply Chain. Bureau of Foreign

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The Workplace

Hiring a Minor? Laws You Need to Know



In **Episode 120** of The Workplace podcast, CalChamber Executive Vice President and General Counsel Erika Frank and employment law expert

Jennifer Shaw discuss best practices for employing minors in California.

Summer is right around the corner and while it's traditionally the time that minors look for summer jobs, things have been a bit different this year, Frank tells podcast listeners. The COVID-19 pandemic has led to hybrid learning models and minors have used the flexibility offered by virtual classes to take on jobs during the regular school season.

So, what should employers know about hiring minors?

Clarifying what a "minor" is, Shaw explains that a "minor" is someone who has not yet graduated from high school. Emancipated minors and those who have obtained a General Educational Development (GED) diploma are not considered minors.

The California Labor Commissioner has a [publication](#) that goes through all the different parameters and contains other key information.

Duty Restrictions

Right now, not only are there more minors wanting to work, there also are

more employers willing to hire them, Shaw says. But there are many requirements about when a minor can be doing something and when they can't, and it can be overwhelming for employers. Not only must employers navigate work permits and school requirements, but there also are safety requirements that must be followed. For example, minors cannot operate a toaster oven, baler, compactor or hot grill.

Moreover, even if a company owner hires a minor they know and don't think the minor will sue, the Labor Commissioner can still drop in on the business and do an audit, Shaw cautions. So, if an employer wishes to bring a minor into the workplace, they need to plan and strategize over these issues.

Shaw points out that if one visits establishments like Starbucks, one will see that the younger workers don't operate the ovens.

Hours, Wage

The number of hours a minor can work will be determined by the work permit and the available hours will vary depending on whether the workday falls on a school day or non-school day, Shaw explains. A student's grades will also be a factor, as the permit is granted at the school's discretion.

As with other employees, minors must be paid at least the minimum wage, and given rest breaks and meal periods. Although federal labor law allows states to pay a lower hourly wage for "learn-

ers," in California, minors cannot be paid less than the minimum wage, Shaw explains.

To recap, when hiring minors, employers must adhere by an additional set of requirements.

"You've got to follow all the regular rules, and then you've got to take on these additional responsibilities," Shaw tells podcast listeners.

Minors Are Great Workers

But the added requirements should not discourage employers from hiring minors, Shaw stresses. Minors are a great group of workers who can be responsible, committed and "with it," she comments.

Frank agrees, saying that oftentimes minors will take on jobs that many adults are unwilling to do. Maybe these adults did these jobs as minors themselves and are now ready to move on.

Miscellaneous Jobs

When it comes to hiring a minor for miscellaneous household jobs like walking the dog, babysitting, or hiring a neighbor's kid to mow the lawn, a work permit is not required, Frank says.

Although there are some wage exceptions for babysitters, these minors should technically still be paid the minimum wage rate. Because these transactions often are "under the table," enforcing the minimum wage law can be tricky. Nevertheless, the minimum wage law still applies, Shaw says.

Court Ruling on CalSavers Means Employers of 50+ Face Deadline

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employers must provide CalSavers with certain contact and identifying information for eligible employees, and must also set up a "payroll deposit retirement savings arrangement," through which employers can remit employees' contributions to the CalSavers Trust.

After the employer registers, the CalSavers Administrator delivers to all eligible employees an information packet describing the program and giving

employees 30 days to opt out.

Upcoming Deadline

The June 30, 2021 deadline for employers with more than 50 employees still stands.

Because the CalSavers program has been upheld, any employers that are not exempt and have more than 50 employees still must register by June 30, 2021.

Employers can register at the CalSavers website (www.calsavers.com),

where they can also access [Frequently Asked Questions](#) (FAQs) about registration, enrolling employees, and more.

Column based on questions asked by callers on the Labor Law Helpline, a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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this new guidance.” And added that “The Division will limit any potential changes to consideration of the recent guidance, in order to make possible a targeted effective date of June 15, 2021.”

Next Steps

Although the Cal/OSHA Standards Board intends to vote on a new text at the June 3 emergency meeting, the text that will be voted upon remained unpublished as this newsletter was being finalized. Assuming it is approved, it will go into effect statewide before June 15, so employers need to be looking to get ahead of compliance issues as soon as possible.

The California Chamber of Commerce expects that the revised text will likely include all of the major features of the May 20 draft text that was to be considered at the Standards Board meeting, but with minimal changes to the face mask requirements.

This means that California employers should stay focused on the May 20 text while keeping an eye open for small changes in the new text, which is expected to be released in the coming week.

Chief among the issues in the May 20 text (which the CalChamber expects will persist in the upcoming revised text), employers should watch for:

- Lightened compliance requirements in some sections based on employee vaccination (which will require ambiguous “documentation” of vaccinated status);
- New requirements to provide N95 respirators to unvaccinated workers in limited settings pre-July 31, and to all unvaccinated indoor employees after July 31;
- Changes to testing and training obligations; and
- Slight loosening of disinfection and cleaning obligations to reflect new science regarding the rarity of surface-based transmission.

These concerns (and others) were all raised in the CalChamber’s coalition comment letter, which was submitted

to the Standards Board for the May 20 meeting, and is available [here](#).

Looking Down the Road

So, what can employers expect after the June 3 vote? Employers should be clear on one thing: the emergency regulation **will not sunset on June 15**. Workplace obligations won’t end just because the Governor has opened up the state socially.

To the contrary, the emergency regulation will continue in effect until Cal/OSHA’s Standard Board ends it, or the emergency regulation expires (which won’t take place until early 2022 if the Board passes these amendments on June 3).

Substantively, employers should keep their eyes on July 31. That’s because the May 20 text of the emergency regulation included a July 31 threshold date for workplace precautions which is the critical date employers will want to watch. This July 31 date is not an expiration date for the entire regulation; instead, certain provisions will change in their application, but not end completely.

For example, although social distancing requirements will diminish, new requirements to provide N95 respirators will take their place — so employers will need to read closely and plan their compliance with the long term in mind.

Although the June 3 text has not yet been released, the CalChamber expects this July 31 transition date will likely be maintained in the June 3 text, so employers should prepare to comply.

In the near term, we also expect Cal/OSHA to release FAQs around certain notable ambiguities in the emergency regulation, including the most hot-button issue: exactly how will employers be required to document the vaccination status of their employees?

N95 Respirator & Recordkeeping Concerns

Of particular concern is the requirement that employers stockpile and make available N95 respirators for unvacci-

nated, indoor workers starting on July 31. The CalChamber estimates that around 2 million workers may be in this category by the end of July.

This change is problematic from both public health and feasibility standpoints. As California employers will need to purchase a significant number of N95 respirators for the duration of the regulation, we have grave concerns that virtually every business in the state will be in competition with health care professionals (both in California and abroad) for that supply.

This competition makes even less sense when you consider that the emergency regulation does not require fit testing or shaving of beards — because such would be infeasible — so employees will likely not have the tight seal necessary for N95’s to work correctly.

In short: indoor, unvaccinated employees will be taking N95’s from healthcare, and not getting the full benefit the N95 would provide to properly trained healthcare or first responders. All of this raises the question: why not stick with face masks and save the N95 masks for medical professionals and industries where they are needed?

Another primary concern is the proposed requirement that employers maintain records containing their employees’ vaccine status. This can be problematic for employers because California requires such employee health records to be kept for the duration of employment plus 30 years. Maintaining those records for that long, and in a way that protects privacy, is a concern for many employers, and especially small employers.

More Information

For more information on the proposed changes to the ETS, see the *Capitol Insider* article “[New COVID-19 Emergency Regulation Amendments Coming from Cal/OSHA.](#)”

Staff Contact: Robert Moutrie

Uncertainty Hurts R&D Investment That's Key to State Competitiveness



Loren Kaye

California's innovation-based economy pays economic dividends not only in our traditional technology hubs, but in every region of the state and in a wide

variety of jobs. Key to the state's competitive advantage in innovation is a robust and historically stable tax incentive known as the research and development (R&D) tax credit.

A year ago, state leaders anticipated a deep, pandemic-induced recession that would erode state revenues. Among other budget-saving actions, lawmakers limited the use of tax credits, including the R&D credit, to a maximum of \$5 million a year per company. This action disrupted many firms' financial planning in the short term.

With recovery driven by technology and business services, and a massive, unexpected boost in state revenues, the Legislature should be revisiting its earlier decision to suspend tax credits. With this in mind, the California Chamber of Commerce teamed with the Milken

Institute to assess the economic and workforce effects of R&D-related private investments.

Long-Term Outlook

One of their key findings is that R&D policy requires a long-term outlook. Companies favor a more predictable policy environment; changes to the tax credit in 2020 were approved during a period of significant uncertainty, and the changes themselves created even more uncertainty.

Guest Commentary By Loren Kaye

Research spending relies on longer-term planning, so any activities relocated outside California may take longer to return (if they return at all).

Other Findings

Milken Institute researchers also found:

- California's level of industry R&D spending is No. 1 nationwide by a wide margin.
- Evidence that incentives have been a key component of supporting business research and development.
- R&D spending has supported high-tech business formation and high-wage job creation, such as Silicon Valley, but the

state also has substantial assets in non-tech sectors such as life sciences, transportation, entertainment, design and machinery.

- The concentration of jobs reliant on or connected to R&D in California for these industries outpaces the nation.
- Innovation-connected jobs appear throughout California. For example, a high concentration of engineering in Bakersfield, computers and math in the Inland Empire, design and media in Los Angeles, and life sciences in San Diego.
- Many R&D-supported occupations are among the fastest-growing job categories in the California, and support higher wages among these fast-growing jobs
- Spending also has generated job creation in occupations that require fewer credentials as well as in non-tech-intensive industries.

More Information

A summary of the Milken Institute's research can be found [here](#). A webinar co-hosted by CalChamber and the Milken Institute on this subject can be viewed at cfce.calchamber.com.

Loren Kaye is president of the California Foundation for Commerce and Education, a think tank affiliated with the California Chamber of Commerce.

Online Options Available with Department of Motor Vehicles



The California Department of Motor Vehicles (DMV) is reminding Californians of

its online options for completing DMV business.

The DMV has revamped its website to offer self-service tasks and assisted tasks. In addition, the DMV states it has expanded eligibility to conduct business

online (such as to seniors), even if the mail notice states that someone needs to visit a DMV office in person.

REAL ID

The enforcement date for having a REAL ID was extended to May 3, 2023, but DMV advises consumers to obtain one sooner rather than later. The REAL ID is a federally accepted form of ID that can replace a current California ID.

A REAL ID or passport will be

required to board domestic flights, visit secure federal facilities such as military bases or courthouses.

The application process involves providing various documents, beginning the application online, and completing it in person.

The online services (including a video showing how to navigate the shopping cart) are explained on the DMV website at www.dmv.ca.gov.

New Deputies at World Trade Organization Include 1 from U.S.; 2 of 4 Are Women



WORLD TRADE ORGANIZATION

World Trade Organization (WTO) Director-General Ngozi Okonjo-Iweala announced the appointment of her four deputy directors-general earlier this month.

The new deputy directors-general are Angela Ellard of the United States, Anabel González of Costa Rica, Ambassador Jean-Marie Paugam of France and Ambassador Xiangchen Zhang of China.

In announcing the appointments, Director-General Okonjo-Iweala commented that this is the first time in the history of the WTO that half the deputy directors-general are women.

“This underscores my commitment to strengthening our organization with talented leaders whilst at the same time achieving gender balance in senior positions. I look forward to welcoming them to the WTO,” said Director-General Okonjo-Iweala, who took office on March 1.

Deputy Directors General

From the WTO, background information on the four deputy directors-general is as follows.

• **Angela Ellard** (United States) has a distinguished career of service working at the U.S. Congress as majority and minority chief trade counsel and staff director. She is internationally recognized as an expert on trade and international economic policy, negotiating trade agreements and supporting multilateral solutions as part of an effective trade and development policy.

Ellard has negotiated and delivered significant bipartisan trade policy outcomes and legislation for well over 25 years with members of U.S. Congress and senior officials in the Trump, Obama, Bush and Clinton administrations.

Ellard also worked as a lawyer in the private sector, dealing with trade litigation and strategy, policy and legislative issues.

She earned her law degree, cum laude, from Tulane University School of Law and her master’s in public policy from Tulane. Ellard is a frequent lecturer for law, graduate and undergraduate classes, and has published articles on trade law and policy.

• **Anabel González** (Costa Rica) is a renowned global expert on trade, investment and economic development with a proven managerial track record in international organizations and the public sector. In government, González served as minister of foreign trade of Costa Rica; as director-general for international trade negotiations; as director-general of the Costa Rican Investment Promotion Agency (CINDE); and as special ambassador and chief negotiator of the U.S.-Central America-Dominican Republic Free Trade Agreement.

González also served at the World Bank as a senior director and at the WTO as director of the Agriculture and Commodities Division and as senior consultant with the Inter-American Development Bank. More recently, she has worked as a non-resident senior fellow with the Peterson Institute for International Economics.

González earned her master’s degree from Georgetown University Law Center with the highest academic distinction and has published extensively on economic issues and trade.

• **Ambassador Jean-Marie Paugam** (France) has held senior management positions in the French government on trade, most recently as permanent representative of France to the WTO.

He also has held a number of senior positions in the French Ministry of Economy and Finance, including as a member of the Executive Committee of the French Treasury. He has served as deputy executive director of the International Trade Centre in Geneva.

Ambassador Paugam has accumulated a deep and practical knowledge of government practices on trade and is familiar with high-level dialogues on trade and international economic operations.

He has published a number of articles on trade-related issues, in particular when serving as senior research fellow on international trade at the French Institute for International Relations (IFPRI).

Ambassador Paugam graduated from ENA in Paris and earned degrees in political science from the Institute of Political Science in Aix-en-Provence and in law from the Faculty of Law Aix-Marseille III.

• **Ambassador Xiangchen Zhang** (China) is currently serving as Vice Minister in the Ministry of Commerce of China. He has long and extensive experience on WTO issues, international negotiations, and policy research.

Ambassador Zhang served until recently as China’s permanent representative to the WTO and previously as deputy permanent representative. He has had an extensive career of more than 30 years in international trade, serving as director of the Department of International Trade and Economic Affairs of the Ministry of Foreign Trade and Economic Cooperation; as director-general of the Department of WTO Affairs of the Ministry of Commerce; and as director-general of the Department of Policy Research of the Ministry of Commerce.

Ambassador Zhang holds a bachelor’s degree in law, a master’s degree in international relations and a doctorate in international politics from Peking University.

World Trade Organization

The World Trade Organization is the only global international organization dealing with the rules of trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible. At its heart are the WTO agreements, negotiated and signed by the bulk of the world’s trading nations, and ratified or approved in their parliaments or legislatures. The goal is to help producers of goods and services, exporters and importers conduct business.

The WTO is a multilateral treaty subscribed to by 164 governments, which together account for the majority of world trade (with more than 20 nations negotiating their accession).

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California District Export Councils Urge Action to Relieve Port Congestion



The many difficulties facing California exporters, particularly the shipping problems

caused by port congestion, were the focus of a virtual meeting hosted by the California Chamber of Commerce this month.

Export shipments ranging from electronics to machinery, food stuffs, agricultural goods and more are being hampered by longstanding systemic issues at the ports. The causes of port congestion have been exacerbated by the pandemic.

The meeting participants included business representatives making up the five California District Export Councils, in addition to federal trade officials from the U.S. Department of Commerce. Together with the CalChamber Council for International Trade, the Northern California District Export Council (DEC) co-hosted the event. The District Export Councils (five in California and 60 nationwide with a total of 1,500 members) contribute leadership and international trade expertise to complement the U.S. Commercial Service's export promotion efforts.

The featured speaker was Commissioner Carl Bentzel of the Federal Maritime Commission (FMC). Bentzel has many years of experience on maritime transportation issues and played a major role in crafting the laws governing port security and ocean shipping.

The FMC is the independent federal agency responsible for regulating the U.S. international ocean transportation system for the benefit of U.S. exporters, importers and consumers, thereby ensuring a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.

Following the [May 12 meeting](#), the chairs of the five California District Export Councils sent a [letter](#) asking the FMC to take immediate action to support U.S. exporters and create a more level playing field for producers of California agricultural products and other goods and products being exported to the world.

The Problem

For roughly the last year, the Ports of Los Angeles, Long Beach and Oakland have experienced near-crippling equipment shortages, trucker shortages and excessive terminal congestion.

In addition, limitations of the appointment system have made it increasingly difficult for shippers to efficiently pick up and drop off containers during the allotted free time or to conduct dual transactions (picking up and dropping off different shipments on the same trip). The inefficiencies have resulted in increased drayage costs, unreasonable detentions and disproportionate demurrage costs.

Other notable systemic issues include carrier practices having to do with how vessels are loaded and unloaded, and the lack of load planning. In addition, carrier practices are causing importers to incur massive assessments for demurrage, detention and similar storage charges, even when loaded containers are not made available for pick up or empties cannot be returned once unloaded within the free time allotted.

For exporters, the problem is even worse as the carriers have chosen to ship empty containers back to Asia, having decided the revenue from reloading the empties at the point of origin and returning them loaded to the United States produces greater revenue than allowing U.S. exporters to ship their goods to export markets.

West Coast agricultural processors have been charged tens of thousands of dollars in fees as a result of re-booking and storing containers, according to Roger Isom, president and CEO of the California Cotton Ginners and Growers Association and the West Coast Agricultural Processors Association.

Recommendations Ignored

Last May, the FMC released recommendations to carriers that were intended to alleviate port congestion. When those recommendations were ignored, the FMC approved a Supplemental Order on November 20, 2020, expanding its investigation of ocean carriers calling at U.S. ports.

That effort appears focused strictly on empty containers being shipped to points of origin and ignores the massive assessments by the carriers, even though the

carriers are the cause of these conditions. These huge assessments are devastating to small and medium-sized businesses.

Carriers also are deciding the value of individual customers and whether to waive some or all of these assessments without any transparency or accountability.

Concerns about Harvest Season

Many economists and port operators predict the current supply chain disruption in California will end by summer and that congestion will ease in time for the 2021 peak season.

Most producers, however, expect congestion to return in the fall, during harvest season, which is also the peak season for imports. Until the systemic issues are addressed, producers predict that port congestion difficulties will continue to ebb and flow.

Although some systemic issues are best addressed at the local level with stakeholders collaborating to identify workable solutions, until the ports, carriers and terminals participate in a meaningful manner, long-term solutions will remain elusive. The pandemic made things worse, but it is not the sole or even the primary cause of the current congestion.

The prospect that California exporters may face yet another year of congestion at ports during the 2021 harvest season underscores the need for immediate action, especially due to the carriers' practice of bypassing U.S. exporters in favor of shippers located in other parts of the world whose cargo the carriers see as a more valuable revenue source.

Call for Action

The California District Export Councils concluded their letter with a request for the FMC to expedite its current investigation of the shipment of empty containers at the expense of U.S. exporters to the extent permitted by its procedural rules. The council chairs asked the FMC to make its findings mandatory for ocean carriers rather than discretionary.

The councils also urged the FMC to recognize the many more significant long-term causes of the current port congestion challenge, and expand its inquiry accordingly.

Staff Contact: [Susanne T. Stirling](#)

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Examples of indoor mega events include conventions, conferences, expos, sporting events and concerts. Examples of outdoor mega events include music or food festivals, car shows, large endurance events and marathons, parades, sporting events and concerts.

Mask requirements must follow the [CDPH guidance](#), which includes the following:

- **Fully vaccinated persons** aren't required to wear face coverings outdoors except when attending crowded outdoor events.

- **Unvaccinated persons** must wear face coverings outdoors anytime physical distancing can't be maintained, including while attending crowded outdoor events.

- **Regardless of vaccination status**, face coverings must be worn in indoor settings outside one's home, including public transportation, with some exceptions.

Guidance Timeline

According to the CDPH guidance, the requirements and recommendations for negative tests and vaccine verification will be in place from June 15 through October 1.

By September 1, the state will assess conditions to determine whether updated requirements or recommendations are needed beyond October 1.

COVID-19 Statistics

As of May 27, the state's COVID-19 dashboard showed more than 36.9 million vaccines have been administered. California's COVID-19 test positivity rate has remained at or below 1% for the last two weeks (0.9% on May 26) and is the lowest in the nation.

State Sets Up Employer Vaccination Toolkit

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Public Health (CDPH). A representative will follow up within three business days and requests will be filled as resources allow. There is no financial cost to the employer.

The Employer Vaccination Toolkit is located at <https://saferatwork.covid19.ca.gov/employer-vaccination-toolkit/>.

Half-sheet flyers that can be used for outreach and education are available to download in the following languages: Arabic, Chinese, East Armenian, English, Farsi, Hmong, Japanese, Khmer, Korean, Punjabi, Russian, Spanish, Tagalog, Vietnamese and West Armenian.

Millions of Californians

have already been vaccinated to keep themselves and their loved ones safe against COVID-19. Let's all get vaccinated so we can get back to safely spending time with our family and friends.

LET'S GET TO IMMUNITY.

Schedule your free vaccination appointment today at VaccinateALL58.com or call (833) 422-4255.

Vaccinate ALL 58

CDPH PublicHealth

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CalChamber-Sponsored Seminars/Trade Shows

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Trade and Taiwan External Trade Development Council. July 8, Online. (415) 362-7680.
USA Pavilion. Defense Exhibition Athens 2021. July 13–15, Athens, Greece. +30 210 699-3559.
Exporting: What's in It for You? World Trade Center Northern California.

July 13 and July 15, Online. (916) 447-9827.
Expo Dubai 2021. Expo 2020 Dubai UAE. October 1, 2021–March 31, 2022, Dubai, United Arab Emirates. (+971) 800 EXPO (3976).
2021 Select LA Investment Summit. World Trade Center Los Angeles and Los Angeles County Economic Devel-

opment Corporation. October 20–21, Los Angeles. (213) 236-4853.
12th World Chambers Congress: Dubai 2021. International Chamber of Commerce World Chambers Federation and Dubai Chamber of Commerce & Industry. November 23–25, Dubai, United Arab Emirates. worldchambercongress@iccwbo.org.

New Deputies at World Trade Organization Include 1 from U.S.

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WTO Function

The basic aim of the WTO is to liberalize world trade and place it on a secure foundation, thereby contributing to economic growth and development, and to the welfare of people around the world. The functions of the WTO are:

- administering WTO trade agreements;
- providing a forum for trade negotiations;
- handling trade disputes;
- monitoring national trade policies;
- offering technical assistance and training for developing countries; and
- cooperating with other international organizations.

The ultimate goal of the WTO is to abolish trade barriers around the world so that trade can be totally free. Members have agreed to reduce, over time, the most favored nation duty rates to zero — along with abolishing quotas and other nontariff barriers to trade. There are more

than 60 agreements dealing with goods, services, investment measures and intellectual property rights.

2021 WTO Action

Director-General Okonjo-Iweala is a former finance and foreign minister from Nigeria. As the newly selected WTO leader, she is tackling reforms within the organization. Her term, which is renewable, will expire on August 31, 2025.

The California Chamber of Commerce is hopeful the major trading economies can reach consensus on a path forward for the WTO this year. The revamp should address the functioning of the Appellate Body, encourage greater transparency and enhance discipline for members who fall behind on reporting obligations.

The Twelfth WTO Ministerial Conference, originally planned for June 2020 in Kazakhstan, now is scheduled for December 2021 in Geneva, location of the WTO headquarters.

CalChamber Position

The CalChamber, in keeping with longstanding policy, enthusiastically supports free trade worldwide, expansion of international trade and investment, fair and equitable market access for California products abroad and elimination of disincentives that impede the international competitiveness of California business.

The WTO is having a positive impact on how California producers of goods and services compete in overseas markets, as well as domestically, and is creating jobs and economic growth through expanded international trade and investment.

The WTO gives businesses improved access to foreign markets and better rules to ensure that competition with foreign businesses is conducted fairly.

Staff Contact: [Susanne T. Stirling](#)

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