

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-5-22

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 COVID-19 Prevention Emergency Temporary Standards (Emergency Temporary Standards), codified at California Code of Regulations, title 8, sections 3205, 3205.1, 3205.2, 3205.3, and 3205.4, which established various workplace safety requirements related to COVID-19 for employers, including requirements for face coverings, and which took effect on November 30, 2020 (OAL Matter No. 2020-1120-01E); and

WHEREAS on June 17, 2021, OSHSB voted to readopt the Emergency Temporary Standards, which took effect on June 17, 2021 (OAL Matter No. 2021-0617-03EFP), and voted on December 16, 2021, to again readopt the Emergency Temporary Standards, which took effect on January 14, 2022 (OAL Matter No. 2021-1227-02EE); and

WHEREAS the Emergency Temporary Standards direct employers to follow current requirements related to face coverings issued by the California Department of Public Health (CDPH) and separately direct employers to ensure that unvaccinated workers wear face coverings at all times while indoors and in vehicles and provide unvaccinated workers face coverings; and

WHEREAS on February 17, 2022, I unveiled the SMARTER Plan, which will guide California's strategic approach to managing the next phase of the COVID-19 pandemic while moving the state's recovery forward, with a focus on continued readiness, awareness and flexibility, including maintaining effective workplace safety standards aligned with the most current evidence about COVID-19; and

WHEREAS on February 25, 2022, the Center for Disease Control and Prevention (CDC) issued updated guidance related to face coverings based on the latest evidence and data on COVID-19, including from the recent surge caused by the Omicron variant, and on February 28, 2022, CDPH issued updated guidance related to face coverings in alignment with the most current evidence and the CDC guidance; and

WHEREAS CDPH's updated face coverings guidance no longer requires that individuals wear face coverings indoors, except in limited settings where face coverings remain universally required, and instead strongly recommends that all individuals do so, while also prohibiting a business or venue operator from preventing any person from wearing a face covering if they desire; and

WHEREAS public health recommendations and the requirements of the Emergency Temporary Standards should be consistent in order to protect public health; and

WHEREAS the deadline for OSHSB to adopt the third re-adoption of the Emergency Temporary Standards is fast approaching; CDPH has just issued updated public health guidance, including changes to the face coverings guidance, in response to recently emerging evidence and data; and additional time to finalize the third re-adoption will maximize the degree of alignment between the Emergency Temporary Standards and current public health guidelines and recommendations; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order 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, and in particular, Government Code sections 8567, 8571, and 8627 do hereby issue the following Order to become effective immediately:

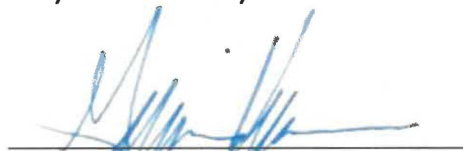
IT IS HEREBY ORDERED THAT:

1. California Code of Regulations, title 8, section 3205(c)(6)(A) is suspended.
2. With respect to the second re-adoption of the Emergency Temporary Standards, which OSHSB adopted on December 16, 2021, the 90-day period specified in Government Code section 11346.1(h) is extended by 21 days.

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 28th day of February 2022.



GAVIN NEWSOM
Governor of California

ATTEST:

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