



# SUMMER

OUR 58TH YEAR                      CONTRA COSTA CHAPTER                      NOVEMBER 2021

## MEMORANDUM OF UNDERSTANDING

### Regarding Vaccination and Dispatch

IBEW LOCAL 302/Contra Costa Chapter, NECA

The issue of COVID--19 Vaccination has developed into one of the most complicated controversies of our time. To help clear things up, we want to make you aware of a [Memorandum of Understanding](#) for our Inside Agreement. It is self explanatory. It is also silent on testing in lieu of vaccination.



As we await (Federal) OSHA's highly anticipated Emergency Temporary Standard (ETS) and Cal/OSHA's modifications (if any) we know that the ETS will require certain employers to implement "vaccine-or-test" policies. It would seem that the "or-test" portion of the equation disincentivizes the vaccination part. More on that later when the ETS comes out. For now, we also want to make you aware of the [position](#) of the National Office of NECA and the International Office of the IBEW on vaccinations. For what it's worth, we continue to

advocate that you recommend vaccination to your employees. It will make them employable on a wider range of jobs.

# POLITICO ALERT

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## **COVID-19 Vaccine Mandates**

There seems to be a lot of confusion within the construction industry regarding COVID-19 vaccine mandates. Currently, there is not a State of California (statewide) vaccine mandate that would apply to contractors. The only relevant COVID-19 vaccine mandates, applying to contractors, have been issued by federal authorities, a few local agencies and some private project owners. I must point out that we don't cover or influence federal policy, or individual agency policy at the local level. We cover California law and regulation. That said, we have received many requests to review the recently enacted and proposed federal vaccine mandates and provide a general summary. In addition, we have outlined what impacts these federal actions will have on triggering state required vaccinations by Cal/OSHA, and the current status of Cal/OSHA's COVID-19 Emergency Temporary Standards (ETS).

### **Federal Vaccine Mandates**

President Biden has signed two Executive Orders (EOs) related to mandatory COVID-19 vaccines at the federal level:

Vaccination is mandatory for federal employees. [Read the EO here.](#)

Mandatory vaccination and testing protocols are to be included in federal contracts. [Read the EO here.](#)

**Additionally, the President [announced](#)** that federal OSHA will develop new Emergency Temporary Standards (ETS) requiring all private employers with 100 or more employees to mandate vaccination or testing negative for COVID-19 at least weekly. The new rules will also include safety protocols for non-vaccinated employees, and the requirement for employers to provide their employees with paid time off to get vaccinated or recover from the vaccine.

### **When do these mandates become effective?**

- **EO for Federal Employees:** Effective immediately but with guidelines to be issued by the Safer Federal Workforce Task Force (SFWTF).
- **EO for Federal Contractors:** The SFWTF has developed agency-specific guidelines for compliance with the order. All current and new federal contracts subject to the Federal Acquisition Regulation will be affected.

**Private Employers with 100+ Employees:** We are still waiting for implementation of the new federal OSHA vaccine mandate ETS. Cal/OSHA will also need to adopt new rules pursuant to federal OSHA's guidelines, meaning application of this mandate would apply to qualifying California employers approximately 30 days after the federal OSHA standards are released.

## **Federal Contractor Vaccination Mandate Guidance**

The Safer Federal Workforce Task Force (SFWTF) has issued [guidance](#) on new COVID-19 safety protocols that apply to all federal contractors and subcontractors. The three key elements are:

1. Full vaccination of all employees by December 8, 2021, with limited exceptions and no testing option instead of vaccination.
2. Worksite requirements for masking and physical distancing, including visitors and others as well as employees.
3. A designated COVID-19 workplace safety coordinator.

The requirement covers certain types of federal contracts and "contract-like instruments." If a contractor has even one of these types of contracts or subcontracts, the requirement applies to all of their company employees, including administrative employees, even if they are not working on the project. Generally, these are contracts (including service contracts) entered into directly with a federal agency under any federal procurement statute, plus all downstream subcontracts.

### **When do these requirements become effective?**

- **Contracts awarded before October 15, 2021 that are ongoing:** The requirements will be incorporated when there is an option exercised or extension made.
- **Contracts made between October 15 and November 14:** The requirements will be in the bid solicitations.
- **Contracts entered into on and after November 14:** All new contracts will contain the requirements.

## **Federal OSHA Vaccine Mandate ETS & Cal/OSHA's Roll**

Cal/OSHA is mandated by law to either adopt Federal OSHA's ETS as written or with amendments that are "at least as effective" as the federal ETS. Again, this should take place within 30 days of the release of the federal standards. Industry is asking that Cal/OSHA simply adopt the Federal ETS, as it relates to the vaccine mandate for large employers, in an effort to reduce confusion.

### **Current Status of Cal/OSHA's COVID-19 ETS Outside of the Vaccine Mandate Issue**

The current Cal/OSHA COVID-19 ETS is set to expire on January 14, 2022. Recently Cal/OSHA released a proposed "second re-adoption" of the ETS. If approved, the extension and revisions to the ETS would go into effect on January 14, 2022, and remain in effect until April 14, 2022. Under the proposal, much of the current Cal/OSHA COVID-19 ETS would remain the same with a few changes requiring the testing of vaccinated employees in some close contact and return to work situations. [Read the proposed ETS changes here.](#)



## ECCT - NECA 2021 CA Legislative Scorecard

The last actions of the 2021 California legislative session took place on October 10<sup>th</sup>, 2021, which was the deadline for Governor Newsom to sign or veto legislation. It was a very busy year for construction related issues, yet also a difficult year to advocate operationally as the effects of the COVID-19 pandemic continued to impact the way the legislature carried out its business. COVID-19 protocols required significant adaptations to procedures including virtual member and committee meetings, modified floor sessions, and remote access only for the public. Through it all, NECA's statewide legislative team engaged in all legislative proceedings impacting our industry and stayed focused on promoting and protecting our contractors and our industry.

In reviewing the Scorecard, it's important to remember that both houses of California's Legislature have 2/3 Democratic supermajorities, which means it is very challenging to stop progressive and environmentally slanted bills that adversely impact our contractors. Despite that fact, NECA was again successful in defeating or amending numerous measures that would have been harmful to our contractors and the industry overall.

In addition, NECA had a very effective legislative session pursuing industry legislation and achieved success in many areas, including; broadening awareness and access to industry apprenticeship programs; clarification on the validity of the use of a responsible managing employee for contractor state licensing purposes; leveling the playing field for excavators in litigation related to damaged subsurface infrastructure; preservation of the construction trucking and hauling safe harbor provisions related to independent contracting; and extensions to the required use of a skilled and trained workforce on public works projects.

Below is a summary of the key bills NECA took strong positions on this year and the outcome.

- ☑ = Positive Outcome
- ☒ = Negative Outcome

### LEGISLATION SUPPORTED BY NECA

- ☑ **AB 246 (Quirk) Contractors - Disciplinary Actions**  
Adds illegal dumping to the list of violations that constitute a cause for disciplinary action against a contractor by the Contractors State License Board.  
Status: [Signed by Governor](#)
- ☑ **AB 332 (Committee Bill) Treated Wood Waste**  
Inadvertently, a new state regulation took effect, on January 1, 2021, limiting the disposal of all treated wood waste to a handful of landfills throughout California. The state issued a variance at the beginning of March 2021, to continue the broader disposal options that have been in place for more than two decades. This measure codifies the variance until further regulations can be developed to expand disposal options.  
Status: [Signed by Governor](#)
- ☑ **AB 486 (Committee Bill) Lease- Leaseback School Construction**  
Extends the requirement for school districts that award lease-leaseback contracts for school construction to participate in a competitive selections process, prequalify contractors, and utilize a skilled and trained workforce on the projects.  
Status: [Signed by Governor](#)

Click [here](#) to view entire summary.



## 2019 Title 24, Part 6 Lighting Education Videos

### **CLTC is excited to release five new videos focused on 2019 Title 24, Part 6 lighting requirements!**

The videos are designed to increase knowledge and implementation of code-compliant lighting in California's nonresidential and residential buildings.

**Each video dives into specific lighting topics in the current Energy Code:**

**[Outdoor Lighting & Sign Control Requirements](#)**

**[Indoor Lighting Controls Requirements &  
Technologies – Manual Area Controls](#)**

**[Indoor Lighting Alterations – Compliance Process](#)**

**[Lighting Controls & Envelope Acceptance Testing Requirements](#)**

**[High Efficacy Requirements for Residential Light Sources](#)**

CLTC developed the videos with funding from Southern California Edison and in collaboration with RMS Energy Consulting, LLC and the California Energy Commission.

Stay tuned for more videos in this [series](#).

# California's C-10 Solar + Storage Licensing Requirement On Hold for at Least a Year

By Kelsey Misbrener | October 5, 2021

Yesterday, the Attorney General of California filed in San Francisco Superior Court a written stipulation agreeing to voluntarily stay enforcement of the Contractor State License Board (CSLB)'s July 27 decision [limiting the ability for California's solar contractors \(C-46\)](#) to install solar paired with energy storage projects. As a result, C-46 solar contractors may continue to install solar and storage systems throughout California on and after November 1, 2021.

The decision also means that the work of a C-46 contractor installing stand-alone solar or solar paired storage systems may continue to be done through the contractor's existing trained and experienced solar workforce, and not be limited to hiring Certified Electricians, as required by the CSLB's July 27 decision. CALSSA contends that there is a severe shortage of Certified Electricians and that they do not necessarily bring public safety benefits compared to the existing specialized solar workforce. The CSLB upheld the existing practice of allowing General A and General B license holders to continue installing solar and solar paired storage systems without using Certified Electricians as well.



“This is a huge relief, albeit temporary, for hundreds of contractors up and down the state,” said Bernadette Del Chiaro, executive director of the California Solar & Storage Association (CALSSA). “The restrictions suddenly imposed this past summer were devastating and came at a time when consumers and the state as a whole desperately need more reliable clean energy, not less.”

The stay agreed to by the CSLB stands until “this action is finally resolved, and the Petitioner-Plaintiff has agreed to withdraw its motion in exchange,” as stated in the stipulation. In other words, the stay on enforcement is good until the CSLB has promulgated new regulations or CALSSA has dropped its lawsuit. The bottom-line is contractors holding a C-46 solar license can continue to install solar and storage systems for at least 12-18 months, and possibly longer depending on the outcome and timeline of any new regulations.

This decision to stay enforcement was made by a majority vote of the CSLB on Wednesday, September 29, and the written stipulation filed with the Court was negotiated between the Attorney General representing the CSLB and CALSSA's litigation team. It represents a major victory in defense of California's solar and storage industry, but not the end of the road.

**“Much more work lies ahead to ensure that any new regulations are clear, consistent, and not harmful to our industry,” said Del Chiaro. “We sincerely hope the CSLB will work with CALSSA going forward and not try to cut corners again.”**

**With this written stipulation, CALSSA has agreed to put a hold on its Preliminary Injunction which would have sought a court-ordered stay on enforcement. The voluntary stay has the same effect and was arrived at sooner than a court would have. CALSSA has not put a hold on its lawsuit claiming that the decision and subsequent bulletins are illegal, underground regulations but is willing to enter settlement negotiations with the CSLB.**

**“We won’t put a hold on our lawsuit until the Board concludes a legal decision-making process for any future regulations and carefully considers what it means to our industry, especially small businesses which make up the majority of our contractor base,” said Del Chiaro.**

**CALSSA points out that the threat of future licensing restrictions remains at the CSLB. The difference is, thanks to CALSSA’s litigation, any new restrictions would be arrived at through a rule-making process that adheres to the Administrative Procedures Act (APA). Such a process typically takes 12-18 months and, according to the law, must be based in fact, be clear and consistent, and consider economic impacts especially to small businesses. If the new regulations don’t adhere to the APA, then CALSSA could decide to take CSLB once again to court.**

**“It is CALSSA’s sincere hope that this will not be necessary,” clarified Del Chiaro. “But the solar and storage industry is here to stay. We might be small compared to our opponents in the fossil fuel industry, but we work together to speak with one voice.”**

**In addition to the existential fight at the licensing board, CALSSA is also engaged in a consequential battle over the future of Net Energy Metering (NEM) at the California Public Utilities Commission. The same labor union, the International Brotherhood of Electrical Workers (IBEW) that pushed the illegal regulations at the CSLB were also behind AB 1139, a bill that mirrored the NEM fight at the CPUC and would have devastated the rooftop solar industry harming existing and future consumers. The bill was shot down by the legislature in June but only after a grueling battle that required the engagement of thousands of voters, small businesses and environmental groups.**

**“This has been quite the year and we are not out of the woods yet,” reflected Del Chiaro. “Our hope is that Governor Newsom exerts some leadership and protects the current and future growth of distributed solar and energy storage in California.”**

# New Member



**Dawson Electric, Inc.** located in Martinez, is our newest Chapter Member.

Mr. Jordan Nunez is the accredited representative. Their office number is (925) 723-3535.



**SYNERGY**  
eLinks

[Update on Skilled and Trained Workforce in the Sound and Communications Industry](#)

[Public Works Market Share Report - 2021 Q3](#)

[NEBF \(National Electrical Benefit Fund\) Summary Plan Description 2021](#)

[Concord City Council Selects Master Developer for Base Reuse Project](#)

[What America's Supply-Chain Backlog Looks Like Up Close](#)



*November 2021*

*Sun Mon Tue Wed Thur Fri Sat*

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**NECA**

Board of Directors  
10:30 a.m.  
Zoom

21 22 23 24 25 26 27

**Thanksgiving Holiday**  
Inside Wireman & Sound and Comm.

28 29 30



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