



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION
3242 WA'APA ROAD
LIHUE, HAWAII 96766

HARBOR MASTER NOTICE
KAUAI DISTRICT
HMN-K 01.22

I. WHO DOES THE HARBOR MASTER NOTICE APPLY TO?

- All *Contractors*¹ entering, working, or providing service in any State facility².
- All *Visitors*³ to State facilities where contact with State employees or members of the public is possible.

A. CONTRACTORS

1. Effective September 13, 2021, all *Contractors* who enter, work, or providing services in any State Facility shall identify all employees accessing State Facilities *and attest*⁴ that each employee is: (1) fully vaccinated⁵ for COVID-19; (2) partially vaccinated for COVID-19 (including receipt of one dose of a two-dose course of vaccination); or (3) not vaccinated for COVID-19;
2. For Contractor's employees who are partially vaccinated or not vaccinated, Contractor will ensure and be able to provide weekly verification⁶ that any unvaccinated or partially vaccinated employee who accesses a State Facility is subject to regular COVID-19 testing with weekly verification.⁷

¹ EO 21-07, 1.c.ii. Definition of Contractor

² EO 21-07, 1.c.iv. Definition of Facility

³ EO 21-07, 1.c.vi. Definition of Visitor

⁴ EO 21-07, 1.c.i Definition of Attestation

⁵ EC 21-07, 1.c.v. Definition of Fully Vaccinated

⁶ EO 21-07, 1.c.iii Definition of Covid-19 Test

⁷ EO No. 21-07, 1.a.i.b. c Contractor will ensure and provide weekly verification

3. WHO IS A CONTRACTOR” OR “CONTRACTOR’S EMPLOYEE?

Contractor” or “Contractor’s Employee” (See Footnote 1) means any:

- a. *Contractor, volunteer, or vendor providing goods, equipment, construction, consulting, or any other materials or services to the State whether paid or unpaid;*
- b. *Concessionaire, permittee, or commercial operator in any State facility (See Footnote 1); or*
- c. *Anyone employed by the contractor or providing service for or on behalf of the contractor who enters, works, or provides services (See Footnote 1) in any State facility under any type of subcontract or other agreement.*

B. VISITOR

1. EFFECTIVE DATE

September 13, 2021, Visitors (see *Footnote 3*) entering, working, or providing service in any State facility shall provide verification that they are fully vaccinated for COVID-19, or, if not fully vaccinated, show their negative test result by: (1) showing official documentation evidencing their negative test result of a COVID-19 test (See *Footnote 6*); or (2) the use of various publicly available health status applications such as the State of Hawaii Smart Health Card, Common Pass applications, CLEAR Health Pass, Azova, IBM Digital Health Pass, and other similar products available to the public.

2. WHO IS A VISITOR?

- a. *“Visitor” means individuals entering any State Facility who is not a State employee, volunteer, vendor, contractor, or employee of a contractor (See Footnote 3).*
- b. *Exclusions: EO No. 21-07 shall not include⁸: Visitors (See Footnote 3) on outdoor State government properties; persons under the age of twelve (12); individuals entering any state Harbor for the purpose of traveling out of or into a Harbor located within the State; or*

⁸ EO 21-07, 1.c.vi)

individuals making deliveries to a State Facility and who leave within ten (10) minutes of entry.

C. FACILITY

1. CAN YOU DEFINE FACILITY?

“Facility” or “Facilities” mean any facility, building, or other property controlled and used by the State to conduct government business, or any other property that is the site of a government project .

II. IMPLEMENTATION REQUIREMENTS

Effective September 13, 2021, all Contractor, Contractor’s employees, and Visitors entering, working, or providing services in any State Facility shall be required to comply with the following:

A. CONTRACTORS SHALL:

1. Identify all of its employees accessing State facilities *and attest* that each employee is: (1) fully vaccinated for COVID-19; (2) partially vaccinated for COVID-19 (including receipt of one dose of a two-dose course of vaccination); or (3) not vaccinated for COVID-19.
2. For those of Contractor’s employees who are partially vaccinated or not vaccinated, Contractor will ensure and be able to provide weekly⁹ verification that any unvaccinated or partially vaccinated employee is subject to regular COVID-19 testing that shall occur once per week.
3. Contractors shall ensure that any unvaccinated or partially vaccinated employee does not enter, work, or provide services in any State Facility unless the employee obtains a negative test result of a COVID-19 test as a condition to being allowed to enter or remain in any State Facility.

B. VISITORS SHALL:

1. Provide verification that they are fully vaccinated for COVID-19, or, if not fully vaccinated, provide proof of their negative test result (see *Footnote 6*) by showing:
 - a. Official documentation evidencing their vaccination status or

⁹ EO No. 21-07, 1.a.i.b. c Contractor will ensure and provide weekly verification.

negative test result of a COVID-19 test; or

- b. Proof of testing status using the various publicly available health status applications such as the State of Hawaii Smart Health Card, Common Pass applications, CLEAR Health Pass, Azova, IBM Digital Health Pass, and other similar products available to the public.

D. OTHER REQUIREMENTS

If not otherwise required by State or county orders, all Contractors, Contractor's employees, and Visitors, whether fully vaccinated, unvaccinated, or partially vaccinated, shall wear a mask the entire time they are present in any State Facility and physically distance themselves from others.

E. EXEMPTIONS

Notwithstanding the provisions set forth herein, all persons subject to this Order also shall comply with any county orders, rules, or directives that are more restrictive, *unless an express exemption is granted by the Governor or Director of Emergency Management.*

To the best of the DOT's knowledge, Contractors or Visitors seeking exemptions requests should visit <https://dod.hawaii.gov/>.

F. ENFORCEMENT

1. Any Contractor, Contractor's employee, or Visitor shall not be allowed to remain on or in any State Facility unless they are following EO No. 21-07 and this Notice. Any unvaccinated or partially vaccinated Contractor, Contractor's employee, or Visitor not in compliance with EO No. 21-07 or found to have submitted falsified information pursuant to EO No. 21-07 shall be precluded from entry to any State Facility until they are in full compliance.
2. Any violation of EO No. 21-07 by a Contractor or Contractor's employee may also be subject to contractual remedies or other remedies as allowed under the law.

III. HOW DO I COMPLY WITH EO NO. 21-07 (ACCESS TO STATE PROPERTY) HARBOR MASTER NOTICE?

- A. The Department of Transportation cannot provide advice to a Contractor or Visitor how they will comply with EO No. 21-07 (Access to State Property) or to this HARBOR MASTER Notice other than what is stated in EO No. 21-07. However, EO No. 21-07, places *the burden on the Contractor* to ensure its employees are following the requirements of EO No. 21-07. The Order also places the responsibility on a Visitor to demonstrate that they are complying with the requirements of EO No. 21-07.
- B. The Contractor on behalf of itself and its employees' shall:
1. Attest to the vaccination status of each employee accessing a State Facility; and
 2. Ensure the employee obtains a negative test result of a COVID-19 test as a condition to being allowed to enter or remain in any State facility.
- C. WHAT HAS THE DEPARTMENT OF TRANSPORTATION IMPLEMENTED REGARDING ITS ATTESTATION AND TESTING PROGRAM?

The Department of Transportation cannot provide advice to a Contractor or Visitor how they will comply with EO No. 21-07 (Access to State Property) or to this HARBOR MASTER Notice other than what is stated in EO No. 21-07. The Department of Transportation shares its own application of an Attestation and Weekly Testing forms to the Contractor or Visitor as a sample only.

1. ATTESTATION. The Department of Transportation complied with the Governor's August 5th, 2021 Emergency Proclamation by requiring all State and county employees to attest to vaccination status by completing *ATTACHMENT A, COVID-19 Vaccination Status Attestation Form*. All forms were distributed through Department of Transportation email and or to print paper copies sent to offices and distribution to employees without email. Employees submitted their forms to their respective departmental-Divisional human resource Master to collect and record statistics of those:
 - a. Vaccinated.

- b. Chose testing in lieu of vaccination (and weekly monitoring and results).
- c. Seeking a medical or religious exemption.
- d. Those placed on leave without pay subject to further employment action to ensure compliance.

2. WEEKLY TESTING

The Department of Transportation complied with the Governor's August 5, 2021 Emergency Proclamation by requiring all State and county employees to attest to their weekly testing by completing *ATTACHMENT B, COVID-19 Weekly Testing Attestation*.

IV. HOW WILL THE DEPARTMENT OF TRANSPORTATION ENFORCE EO NO. 21-07 (ACCESS TO STATE PROPERTY) HARBOR MASTER ORDER?

A. CONTRACTORS

EO No. 21-07 (Access to State Property) will be enforced by the HARBOR MASTER, Project Engineer, or agent. These State employees will conduct random audits of contractor compliance. Contractors or their employees, as defined herein, found not in compliance with EO No. 21-07 will be required to immediately leave the State Facility. Contractor's employees will not be allowed on the State Facility until the Contractor shows proof of compliance with EO No. 21-07 or *proof of an exemption*.

Thereafter, the HARBOR MASTER, Project Engineer, or agent will work with the Contracts office and the Deputy Director to determine if a contractual remedy will be imposed for the non-compliance.

B. VISITORS

1. EO No. 21-07 (Access to State Property) will be enforced by the HARBOR MASTERS, Project Engineer, or agents conducting audits of compliance by Visitors entering into or who are on State Facilities. Visitors without proof of vaccinations or weekly testing will not be allowed to enter or remain on or in a State Facility.

B. VISITORS

1. EO No. 21-07 (Access to State Property) will be enforced by the HARBOR MASTERS, Project Engineer, or agents conducting audits of compliance by Visitors entering into or who are on State Facilities. Visitors without proof of vaccinations or weekly testing will not be allowed to enter or remain on or in a State Facility.
2. Visitors, as defined herein and not excluded from EO No. 21-07, who are found within a State Facility and not in compliance with EO No. 21-07 will be required to immediately leave the State Facility. They will not be allowed to return and access the State Facility until they demonstrate that they are following EO No. 21-07.



Robert Crowell
Harbor Master



Date