



California Legislative Conference of the  
Plumbing, Heating and Piping Industry



CONSTRUCTION  
EMPLOYERS'  
ASSOCIATION



April 16, 2020

Doug Parker, Chief  
Cal/OSHA / Division of Occupational Safety and Health  
1515 Clay Street, Suite 1901  
Oakland, CA 94612

**RE: Additional Guidance on Recording Cases of COVID-19**

Dear Chief Parker,

On behalf of the listed construction organizations on this correspondence, we would like to thank you for your leadership and guidance during these challenging times and for your quick response to our requests for clarification on recording and reporting requirements related to COVID-19. We are again reaching out to seek Cal/OSHA's consideration and implementation of the recently issued federal interim guidance regarding recordable COVID-19 events.

Your correspondence sent April 8th, via email, provided guidance on what is considered a recordable COVID-19 event by Cal/OSHA. The letter stated that "Cal/OSHA agrees with and follows the Federal OSHA guidance on the recording of confirmed COVID-19 cases." Since receiving your letter, new interim guidance has been provided by Federal OSHA clarifying if and when a COVID-19 case would be considered a recordable event for an employer.

Specifically, on April 10, 2020 The United States Department of Labor (DOL) issued guidance that it will not enforce the recordkeeping standard 29 C.F.R. Part 1904 upon construction employers and others due to the difficulty in determining whether an employee contracted COVID-19 at work unless there is objective evidence of work-relatedness.

DOL stated: "In areas where there is ongoing community transmission, employers other than those in the healthcare industry, emergency response organizations (e.g., emergency medical, firefighting, and law enforcement services), and correctional institutions may have difficulty making determinations about whether workers who contracted COVID-19 did so due to exposures at work. In light of those difficulties, OSHA is exercising its enforcement discretion in order to provide certainty to the regulated community.

*Employers of workers in the healthcare industry, emergency response organizations (e.g., emergency medical, firefighting, and law enforcement services), and correctional institutions must continue to make work-relatedness determinations pursuant to 29 CFR § 1904. Until further notice, however, OSHA will not enforce 29 CFR § 1904 to require other employers to make the same work-relatedness determinations, except where:*

- 1. There is objective evidence that a COVID-19 case may be work-related. This could include, for example, a number of cases developing among workers who work closely together without an alternative explanation; and*
- 2. The evidence was reasonably available to the employer. For purposes of this memorandum, examples of reasonably available evidence include information given to the employer by employees, as well as information that an employer learns regarding its employees' health and safety in the ordinary course of managing its business and employees."*

We strongly encourage Cal/OSHA to adopt the interim guidance released by DOL on April 10th. Confusing and conflicting policy only adds to the chaos during these challenging times. In addition, we request that the Division provide a response to the members of this coalition as to whether or not Cal/OSHA will follow the DOL guidance.

The construction industry is continuing to implement strict health and safety policies and procedures at our jobsites, field offices, and company headquarters. We are not only meeting the requirements outlined in the CDC COVID-19 prevention guidelines and all State/Local Public Health Orders, but to the best of our ability we are exceeding them. As our industry continues to do everything possible to keep our workforce safe, we thank you for your consideration of our request.

For reference, a copy of the DOL memo can be found at this link:

<https://www.osha.gov/memos/2020-04-10/enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>

Sincerely,

  
Eddie Bernacchi  
CLC, NECA

  
Mark Breslin  
CEO, United Contractors

*Peter Tateishi*  
Peter Tateishi  
CEO, AGC of California

*Frank Nunes*  
Frank Nunes  
CEO, WACA

  
Timothy Murphy  
CEO, SRBX

*Albert Carrillo*  
Albert Carrillo  
CEO, WWCCA

**Jeannie Simpelo**  
Jeannie Simpelo  
CEO, NCAT

  
Denise K. Cooper  
President, SCCA

*Chris Walker*  
Chris Walker  
EVP, CalSMACNA

Mike Walton  
Secretary, CEA

*Deveny Pula*  
Deveny Pula  
CEO, SCGMA

  
Ray M. Baca  
Executive Director, ECA

  
Russ Snyder  
Executive Director, CalAPA