

CONSTRUCTION INDUSTRY SAFETY COALITION

January 27, 2021

James “Jim” Frederick
Deputy Assistant Secretary
U.S. Department of Labor
Occupational Safety and Health Administration
Room: S2315
200 Constitution Ave NW
Washington, DC 20210

Re: Construction Industry Safety Coalition
Response to COVID-19 Pandemic

Dear Mr. Frederick:

On behalf of the Construction Industry Safety Coalition (“CISC”), congratulations on your appointment as Deputy Assistant Secretary of the Occupational Safety and Health Administration (“OSHA”). The CISC looks forward to working with you and the Biden Administration to improve workplace safety and health throughout the construction industry.

As you assume your duties as Deputy Assistant Secretary, we recognize that a major priority will be further addressing COVID-19 from a workplace safety and health perspective. President Biden’s recently issued “Executive Order on Protecting Worker Health and Safety” has tasked the Agency with several actions, including the issuance of clear guidance regarding protecting employees from COVID-19 in the workplace and considering whether an Emergency Temporary Standard (“ETS”) is warranted to address the pandemic. We write to inform you of the work of the CISC to keep construction workers safe in these unprecedented times and to request an opportunity to meet with you to discuss ways that we may assist the Agency in its efforts related to developing guidance for COVID-19 prevention in construction workplaces.

Background on the CISC

The CISC is comprised of 30 trade associations representing virtually every aspect of the construction industry. The CISC was formed several years ago to provide data and information to OSHA on regulatory, interpretive, and policy initiatives. The CISC speaks for small, medium, and large contractors; general contractors; subcontractors; and union contractors alike and represents all sectors of the construction industry, including commercial building, heavy industrial production, home building, road repair, specialty trade contractors and material suppliers. Workplace safety and health is a priority for all members of the coalition, and each is committed to helping create safer construction jobsites for workers.

CISC COVID-19 Prevention Efforts

From the outset of the pandemic, the construction industry has been deemed essential critical infrastructure by the Department of Homeland Security. Construction industry employers and employees have in large measure continued to work in states and localities across the country. As a result, the industry has been at the forefront of efforts to protect construction employees.

Immediately recognizing the need for clear guidance and information specific to protecting construction workers, the CISC in March of 2020 developed a “COVID-19 Exposure Prevention Preparedness and Response Plan” (the “Response Plan”), which has been made available in both English and Spanish and provided at no cost to the construction industry. The CISC updated the plan four times to account for changes in Centers for Disease Control and Prevention (“CDC”) guidance. We enclose copies of the latest version of the Response Plan to this letter.

The Response Plan provides a comprehensive approach for minimizing the risk of exposure to COVID-19 in the construction work environment. It sets responsibilities for managers and workers, provides key jobsite protective measures, and describes PPE, work practice controls, use of face coverings and how to handle employees who exhibit symptoms of COVID-19 or test positive. Sample forms and notifications are also included, along with a COVID-19 “Checklist” and “Toolbox Talk.”

The Response Plan is tailored to the construction environment, which OSHA has generally classified as low hazard. Early in the pandemic, the CISC felt that most of the guidance for businesses was directed at general industry and stationary worksites. The Response Plan developed by the CISC was one of the first comprehensive guidance documents directed specifically at the construction industry. Indeed, several states and localities took note and referenced the Response Plan in their COVID-19 orders and guidance documents. The CISC also translated the Response Plan into Spanish to further its utility across the construction industry.

In addition to the Response Plan, the CISC also organized two safety stand downs related to COVID-19, one in April 2020 and the other just recently in January 2021. The most recent stand down was designed, in part, to refocus construction employers and employees on staying vigilant with respect to compliance with key prevention efforts.

Request for Meeting

The CISC continues to look for ways to provide information to construction employers and employees on COVID-19. To that end, we are interested in meeting with you to discuss our efforts and ways we may assist the Agency as it provides guidance for employers and employees in the construction industry to meet the challenges of the pandemic.

As our members have focused on working safely during the pandemic, they have also experienced and observed several challenges with guidance or regulatory efforts related to COVID-19, which we are also interested in discussing with you. For example, shortages of N95

filtering facepiece respirators (“FFRs”) have put a strain on the construction industry. Use of N95 FFRs in construction to prevent exposure to COVID-19 is not necessary, given the nature of construction work and other available protective measures. It would also impact the overall availability of respiratory protection for other hazardous exposures. In addition, certain testing mandates have proven to be infeasible due to testing unavailability. These mandates have also diverted resources from the implementation of engineering and work practice control measures within the industry. And finally, OSHA must consider whether any regulatory and policy actions will have a significant economic impact on small businesses in construction, where firms with fewer than 20 workers make up approximately 80 percent of the industry.

We look forward to further conversations and will follow-up with your staff to try to arrange a time to meet. In the meantime, should you have any questions please feel free to contact Rob Matuga of the National Association of Home Builders at rmatuga@nahb.org or Kevin Cannon of the Associated General Contractors of America at kevin.cannon@agc.org. Thank you and, again, congratulations on your appointment.

Sincerely,

The Construction Industry Safety Coalition

American Road and Transportation Builders Association
American Society of Concrete Contractors
American Subcontractors Association
Associated Builders and Contractors
Associated General Contractors
Association of Equipment Manufacturers
Association of the Wall and Ceiling Industry
Concrete Sawing & Drilling Association
Construction & Demolition Recycling Association
Distribution Contractors Association
Independent Electrical Contractors
Interlocking Concrete Pavement Institute
International Council of Employers of Bricklayers and Allied Craftworkers
Leading Builders of America
Mason Contractors Association of America
Mechanical Contractors Association of America
National Asphalt Pavement Association
National Association of Home Builders
National Association of the Remodeling Industry
National Demolition Association
National Electrical Contractors Association
National Framers Council
National Roofing Contractors Association
National Utility Contractors Association

Natural Stone Council
Natural Stone Institute
Sheet Metal & Air Conditioning Contractors' National Association
Specialized Carriers & Rigging Association
The Association of Union Constructors
Tile Roofing Industry Alliance

cc: Amanda Edens, Deputy Assistant Secretary
Scott Ketcham, Director, Directorate of Construction

Enclosures