



March 25, 2020

Ms. Loren Sweatt
Principal Deputy Assistant Secretary of Labor
U.S. Department of Labor
Occupational Safety & Health Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: OSHA Response to COVID-19 Outbreak

Dear Ms. Sweatt:

The American Road & Transportation Builders Association (ARTBA) urges OSHA to clarify recent standards and website postings related to the recordability of exposure to the COVID-19 virus and their consistency with past agency practices.

The transportation construction industry ARTBA represents includes private and public sector entities that plan, design, build and maintain the nation's roadways, waterways, bridges, ports, airports, rail and transit systems. Our industry generates \$610 billion annually in economic activity and sustains more than four million U.S. jobs.

As OSHA works to be proactive and provide employers with information they can use to protect their workers from COVID-19, it appears the agency's public communications in this area are reaffirmations of long-standing policy and regulations. Specifically, OSHA has stated COVID-19 can be a recordable illness if a worker is infected as a result of performing their work-related duties.

A byproduct of this volatile public health environment is heightened concern and, perhaps, confusion over the responsibilities of employers. Many of ARTBA's transportation construction contractor members have inquired as to the practicability and fairness of reporting employees who contract the virus, when the nexus between the job site and exposure would be difficult to ascertain. As an example, this is why flu diagnoses are not considered recordable for construction employers.

Based on consultations with leading safety experts in our industry, ARTBA believes it would be very helpful if OSHA issued a statement indicating employers that have not been required to report illnesses caused by health pathogens in the past will not likely need to report such exposures to COVID-19, unless their work procedures or job tasks have changed significantly in recent weeks.

Because the Department of Homeland Security and many of the nation's governors have classified transportation construction as an "essential" activity, our members and their employees are continuing to build and maintain key infrastructure assets nationwide. They are doing so while utilizing their customary work zone safety practices, as well as additional efforts to prevent COVID-19 within the workforce. In this unprecedented circumstance, we welcome communications from OSHA that address and – hopefully – alleviate the concerns of our unique industry.

Our point of contact on these issues remains Brad Sant, ARTBA senior vice president of safety and education, who can be reached at 202.683.1008 or bsant@artba.org. He is available for your consultation as needed.

Thank you for your consideration of ARTBA's views at this important time.

Sincerely,

A handwritten signature in black ink that reads "David Bauer". The signature is written in a cursive, flowing style.

David C. Bauer
President & CEO