



**AGC**

THE CONSTRUCTION  
ASSOCIATION

**March 30, 2020**

# **An Overview of the Latest Economic, Legislative & Regulatory COVID-19 Related Impacts on Construction**

# Overview



- AGC Coronavirus Survey Summary
- Federal CISA Guidance & Essential Construction
- The Importance of Safety to Continued Construction Operations
- The CARES Act: Tax and Lending Overview
- The Family First Coronavirus Response Act: The latest on U.S. DOL guidance on and the questions AGC members keep asking about the new federal paid leave mandates
- Concerns with the New Unemployment Insurance program
- What Lies Ahead: Upcoming AGC Webinars
- Questions and Answers

# Kenneth Simonson

Chief Economist



## AGC Coronavirus Survey Summary

- The data we know
- The data we need from you to help us continue to make the case to policy makers, the media and the public

# AGC Coronavirus Survey Summary



conducted March 23–26; 1640 responses

- State/local official or agency ordered **halt to work**: 18%
- Owner ordered **halt to current work**: 39%
- Have you experienced **project delays or disruptions** (total: 45%) due to:
  - **shortage of materials**, equipment or parts: 23%
  - **shortage of craftworkers** (incl. subs): 18%
  - **shortage of gov. workers** (for approvals, inspections, etc.): 16%
  - info that an infected individual has **potentially infected a jobsite**: 13%
- Have suppliers sent notice that **deliveries will be late or cancelled**: 35%

# Murphie Barrett

Vice President, Congressional Relations for Infrastructure Advancement



## COVID-19 Response: What workers are essential?

- Background on CISA
- CISA Guidance: Essential Critical Infrastructure Workforce
- AGC's Activities
- Updated CISA Guidance: Version 2.0

# What is CISA?



## It's the Nation's Risk Advisor



- Cybersecurity and Infrastructure Security Agency or CISA is part Department of Homeland Security.
- It was created by Congress in 2018.
- CISA's job is work with partners to help ensure Nation's critical infrastructure is protected from cyber and other threats now and in the future.
- 16 critical infrastructure sectors.

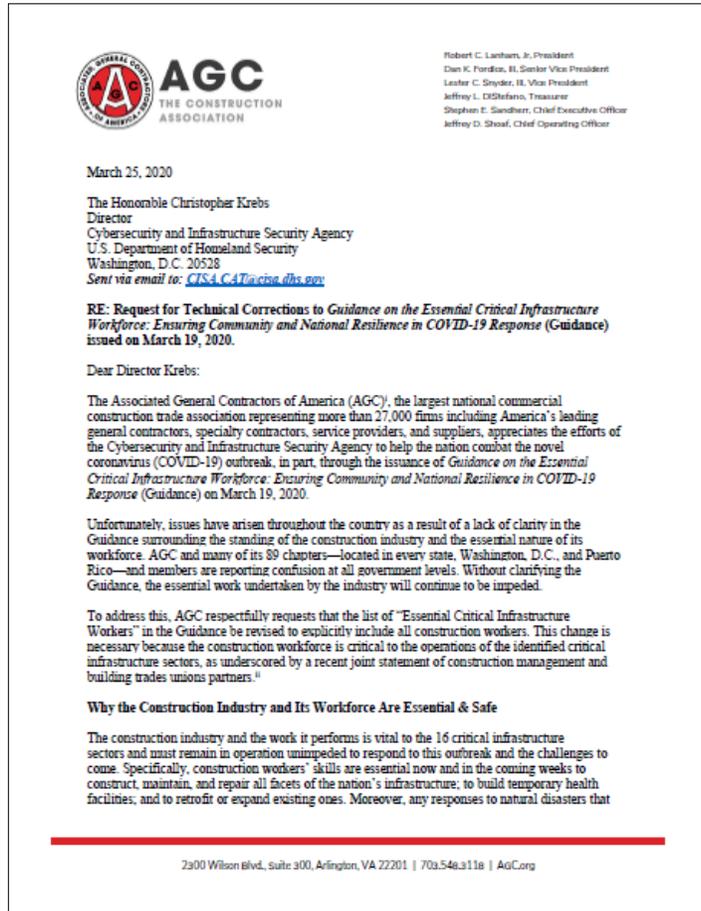
# CISA Guidance: Essential Critical Infrastructure Workforce



## First Version Released on March 19, 2020

- Why did CISA issue guidance on essential critical infrastructure workforce?
  - To help states and local governments determine who was needed to ensure the security and resilience of our critical infrastructure during COVID-19 pandemic.
- Important items to note:
  - The guidance and list are advisory; **not** a federal mandate.
  - It will be updated as necessary based on the situation and feedback.
- What does the guidance say about construction workers?
  - The guidance specifically states that the accompanying list includes those workers needed for “maintaining and repairing critical infrastructure” and “working construction” among others.
- However, the list did not always explicitly include construction workers for each critical infrastructure sector.
- This lack of clarity regarding construction workers created confusion.

# ACG Taking Action



## Combat a Patchwork of Regs for Construction Workers

- Tactics deployed include:
  - Action alert produced more than 48,000 messages from close to 12,500 advocates
  - Joint statement with the North America's Building Trades Unions
  - Outreach to key Congressional Committees
  - AGC request to CISA seeking updates to the list
  - AGC support for construction suppliers manufacturers / permits & inspectors

# CISA Guidance: Version 2.0

Released on March 28, 2020



- **Key Changes:**
  - Construction and related activities now appears 25 different parts the guidance and list.
  - Construction added to the following critical infrastructure sectors: Energy; Other Community or Government Based Operations and Essential Functions; and Residential/Shelter Facilities and Services.
  - Included the manufacture and delivery of construction supplies and safety equipment and the permitting and inspection of projects.
- **Assessment:** Helps eliminate the confusion about whether construction workers are essential.
- **Next Steps:** Keep working with AGC's chapters and members to ensure that state and local officials continue, or begin, to allow construction work to proceed.
- **Read Version 2.0:** <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>.

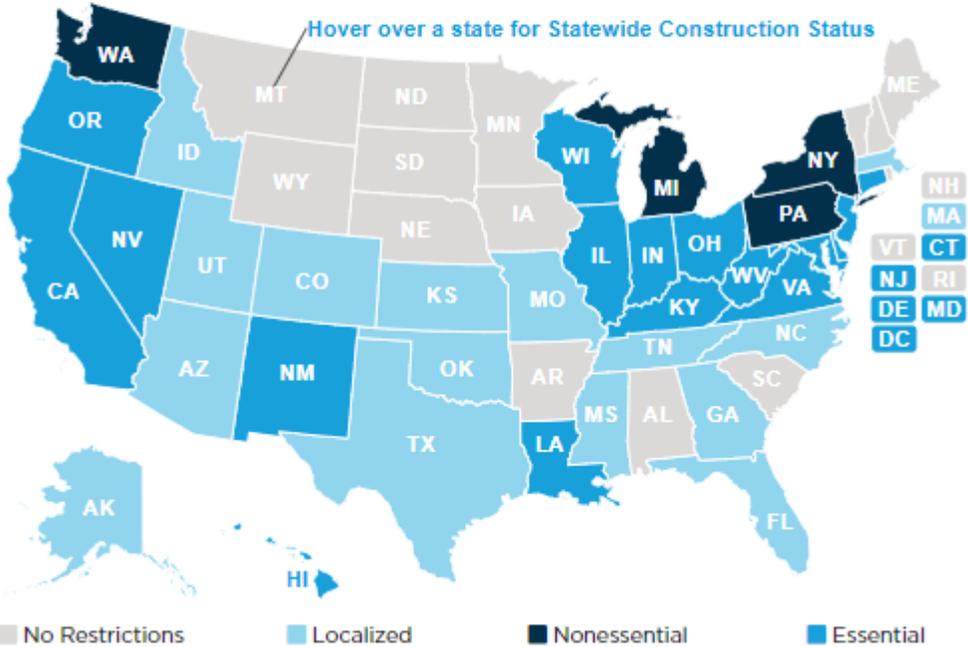
# AGC & ConstructConnect Map



## Is Construction Essential In Your State?

Around the U.S., we're seeing more states, counties, and cities choose to close nonessential businesses or issue some sort of "stay at home" or "shelter in place" orders. For the most part, construction activity has been included as an essential activity that can continue with business as usual during these orders—but there are pockets where construction sites have been shuttered.

To keep track of specific projects, please check out our [Delayed Project Reports](#).



<https://www.constructconnect.com/covid-19-construction-activity-report>



# Stephen Sandherr

CEO



## **Safety First & Always: It's Essential to Construction**

- Continuing construction operations demands safe worksites

# Continuing Construction Operations Demands Safe Worksites



- Safety is the primary concern of every construction project
- AGC and our chapters have been mostly successful in ensuring that construction operations continue
- Federal, state, and local officials have relied on our communications that social distancing, use of PPE and monitoring who enters your jobsites creates a safer environment than exists in other industries
- For the most part, construction unions support continued work IF safe practices are maintained

# Continuing Construction Operations Demands Safe Worksites



- Government officials can reverse the ability to continue to operate with the stroke of a pen
- Every private citizen with a phone is a potential public inspector
- Construction CEO's and senior execs need to ensure that safe practices are known, understood, and followed
- AGC has resources to assist in that effort and they are available on our website
- The public is counting on us to do our part to prevent the spread of COVID-19

# Matthew Turkstra

Director, Congressional Relations, Tax, Fiscal Affairs, and Accounting



## The Coronavirus Aid, Relief, and Economic Security (CARES) Act

- Tax relief provisions
- New Small Business Administration lending program provisions
- New midsized business lending program provisions

# The Coronavirus Aid, Relief, and Economic Security (CARES) Act



## Tax Relief

- Focused on delaying tax liability, improving cash flow, moving towards countercyclical policy, and righting wrongs from TCJA
- Authorizes advanced refunding payment of FFCRA payroll tax credits
- Delay employer payroll taxes through 2021
- Reinstating NOL carrybacks for 5 years for 2018, 2019, and 2020 losses.

Form **1040** Department of the Treasury—Internal Revenue Service (99) **2019** U.S. Individual Income Tax Return CMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

**Filing Status**  Single  Married filing jointly  Married filing separately (MFS)  Head of household (HOH)  Qualifying widow(er) (QW)  
 Check only one box. If you checked the MFS box, enter the name of spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent. ▶

Your first name and middle initial Last name Your social security number  
 If joint return, spouse's first name and middle initial Last name Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions. Apt. no. Presidential Election Campaign  
 Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not charge your tax or refund.  You  Spouse

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).

Foreign country name Foreign province/state/country Foreign postal code If more than four dependents, see instructions and ✓ here ▶

**Standard Deduction** Someone can claim:  You as a dependent  Your spouse as a dependent  
 Spouse itemizes on a separate return or you were a dual-status alien

**Age/Blindness** You:  Were born before January 2, 1955  Are blind Spouse:  Was born before January 2, 1955  Is blind

(1) First name		Last name	(2) Social security number	(3) Relationship to you	(4) ✓ if qualifies for (see instructions):	
					Child tax credit	Credit for other dependents
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

<b>1</b> Wages, salaries, tips, etc. Attach Form(s) W-2		<b>1</b>
<b>2a</b> Tax-exempt interest	<b>2a</b>	<b>2b</b>
<b>3a</b> Qualified dividends	<b>3a</b>	<b>3b</b>
<b>4a</b> IRA distributions	<b>4a</b>	<b>4b</b> Taxable amount
<b>c</b> Pensions and annuities	<b>4c</b>	<b>4d</b> Taxable amount
<b>5a</b> Social security benefits	<b>5a</b>	<b>5b</b> Taxable amount
<b>6</b> Capital gain or (loss). Attach Schedule D if required. If not required, check here	<input type="checkbox"/>	<b>6</b>
<b>7a</b> Other income from Schedule 1, line 9		<b>7a</b>
<b>b</b> Add lines 1, 2b, 3b, 4b, 4d, 5b, 6, and 7a. This is your <b>total income</b>		<b>7b</b>
<b>8a</b> Adjustments to income from Schedule 1, line 22		<b>8a</b>
<b>b</b> Subtract line 8a from line 7b. This is your <b>adjusted gross income</b>		<b>8b</b>
<b>9</b> <b>Standard deduction or itemized deductions</b> (from Schedule A)	<b>9</b>	
<b>10</b> Qualified business income deduction. Attach Form 8995 or Form 8995-A	<b>10</b>	
<b>11a</b> Add lines 9 and 10		<b>11a</b>
<b>b</b> <b>Taxable income.</b> Subtract line 11a from line 8b. If zero or less, enter -0-		<b>11b</b>

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11320B Form **1040** (2019)

# The Coronavirus Aid, Relief, and Economic Security (CARES) Act



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## Tax Relief (cont.)

- Suspension of limitation on pass-through business losses (Section 461(l))
- Suspension of business interest deduction limitation (Section 163(j))
- Fixing the “retail glitch”
- Also: \$1,200 cash payments, incentives for charitable contributions, waiving certain RMDs, employee retention tax credit

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Your first name and middle initial Last name Your social security number  
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Home address (number and street). If you have a P.O. box, see instructions. Apt. no. Presidential Election Campaign  
Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund.  You  Spouse

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<b>3a</b> Qualified dividends	<b>3a</b>	<b>3b</b> Ordinary dividends. Attach Sch. B if required	<b>3b</b>
<b>4a</b> IRA distributions	<b>4a</b>	<b>4b</b> Taxable amount	<b>4b</b>
<b>c</b> Pensions and annuities	<b>4c</b>	<b>4d</b> Taxable amount	<b>4d</b>
<b>5a</b> Social security benefits	<b>5a</b>	<b>5b</b> Taxable amount	<b>5b</b>
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# The Coronavirus Aid, Relief, and Economic Security (CARES) Act



## Lending Provisions

- New SBA \$350 Billion Lending Program: “Paycheck Protection Program”
- Acts as combination loan and grant program
- To qualify, must meet certain criteria:
- Must have been operational as of 2/15/20
- Had paid employees or paid IC
- Fewer than 500 employees (SBA definition)



U.S. Small Business  
Administration

# The Coronavirus Aid, Relief, and Economic Security (CARES) Act



## Lending Provisions

- New SBA \$350 Billion Lending Program: “Paycheck Protection Program”
- Loan limited to lesser of \$10 million or 2.5 times employer’s avg. monthly payroll
- Payroll costs capped at \$100,000 annualized salary
- Loans can be used for payroll support, leave, insurance premiums, mortgage, rent, utilities, and interest on debt incurred prior to 2/15/20



U.S. Small Business  
Administration

# The Coronavirus Aid, Relief, and Economic Security (CARES) Act



## Lending Provisions

- New SBA \$350 Billion Lending Program: “Paycheck Protection Program”
- Borrowers will have to certify loan used for intended purpose.
- Capped at four percent interest
- If borrower proves money used for payroll (capped at \$100,000 annualized), mortgage interest, rent, and utilities during “covered period,” then loan is forgiven.



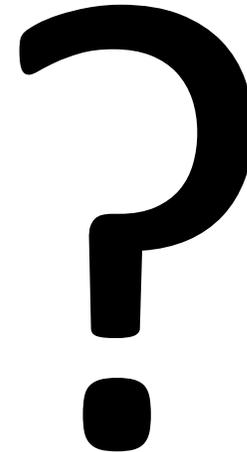
U.S. Small Business  
Administration

# The Coronavirus Aid, Relief, and Economic Security (CARES) Act



## Lending Provisions

- New \$454 Billion Exchange Stabilization Fund
- Used in conjunction with Federal Reserve to leverage up to \$4 trillion in loans
- Great discretion given to Treasury Secretary
- Hefty strings attached and loans not forgiven
- Borrowers prohibited from stock buybacks, dividend payments, increasing executive compensation, and “golden parachutes”



# The Coronavirus Aid, Relief, and Economic Security (CARES) Act



## Lending Provisions

- New \$454 Billion Exchange Stabilization Fund
- Employers with 500 to 10,000 employees:
  - Required to maintain 90 percent of workforce
  - Prohibited from offshoring
  - Prohibited from abrogating collective bargaining agreements for term of loan + 2 years
  - Required to remain neutral in union organizing effort for term of loan



# Claiborne Guy

Director, Employment Policy & Practices



## Updates on Paid Leave Mandates under the Families First Coronavirus Response Act

- Summary of Paid Leave Mandates under the Families First Coronavirus Response Act, H.R. 6201
- Ongoing guidance from DOL
- Resources

# Families First Coronavirus Response Act, Paid Sick Leave



## New Federal Paid Sick Leave & Paid Family & Medical Leave

- Both apply to employers with fewer than 500 employees
- Small businesses with fewer than 50 employees can claim an exemption from both provisions
- Both take effect on April 1, 2020
- Both sunset on December 31, 2020
- Both are “paid” for with tax credits
- Applicability on CBAs?

# Families First Coronavirus Response Act, Paid Sick Leave



	Covered Employers	Duration of Leave	Qualifying Reasons for Leave	Required Wage Replacement	Applicability of: Division G – Tax Credits for Paid Sick and Paid Family and Medical Leave
<p><b>Division E – Emergency Paid Sick Leave</b></p> <p>Effective 15 days after enactment.</p> <p>Expires 12/31/2020</p>	<p><u>Private sector employers with fewer than 500 employees.</u></p> <p>Public sector employers with 1 or more employees.</p> <p>Good cause exemption for employers with fewer than 50 employees. Applies to reason #5 only. (DOL Rule)</p>	<p><u>Employer must provide 2 weeks</u> of paid sick leave for full-time covered employees.</p> <p>Special rule for part-time employees.</p>	<ol style="list-style-type: none"> <li>Employee is subject to a Federal, state or local quarantine related to COVID-19.</li> <li>Employee has been advised by a health care provider to self-quarantine.</li> <li>Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.</li> <li>Employee is caring for an individual who is subject to quarantine pursuant to 1 and 2.</li> <li>To care for a child or children whose school or care provider is unavailable due to COVID-19.</li> <li>Employee is experiencing a similar condition as specified by HHS, DOL or Treasury.</li> </ol>	<p><u>Reasons #1-3:</u> Employee’s regular rate of pay. Capped at \$511/day and \$5,110 total.</p> <p><u>Reasons #4-6:</u> 2/3 of employee’s regular rate of pay. Capped at \$200/day and \$2,000 total.</p> <p>Special rule for part-time employees.</p>	<p>Private sector employers with fewer than 500 employees may obtain a credit for wage replacement:</p> <p><u>Employers receive 100% payroll tax credit (refundable as needed)</u> for required paid sick leave wages plus certain health care expenses of the employer.</p> <p>Special rule for self-employed.</p>

# Families First Coronavirus Response Act, Paid Sick Leave



	Covered Employers	Duration of Leave	Qualifying Reasons for Leave	Required Wage Replacement	Applicability of: Division G – Tax Credits for Paid Sick and Paid Family and Medical Leave
<p><b>Division C – Emergency Family and Medical Leave</b></p> <p>Effective 15 days after enactment.</p> <p>Expires 12/31/2020</p>	<p><u>Private sector employers with fewer than 500 employees.</u></p> <p>Good cause exemption for employers with fewer than 50 employees. (DOL rule)</p>	<p><u>Employer must provide 10 weeks</u> of paid family and medical leave for employees (employed for at least 30 days).</p> <p>Special rule for part-time employees.</p>	<p>Employee is unable to work (or telework) due to a need for leave to care for a son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider is unavailable, due to a public health emergency.</p>	<p><u>Not less than 2/3 of regular rate of pay</u> based on # of hours scheduled to work. Capped at \$200/day and \$10,000 total.</p> <p>Special rule for part-time employees.</p>	<p>Private sector employers with fewer than 500 employees may obtain a credit for wage replacement:</p> <p><u>Employers receive 100% payroll tax credit (refundable as needed)</u> for required paid family and medical leave wages plus certain health care expenses of the employer.</p> <p>Special rule for self-employed.</p>

# Families First Coronavirus Response Act, Paid Sick Leave



## Some Clarity, But Guidance Ongoing

- How to count employees towards the under 500 threshold
- Details on full-time & part-time employees, rate of pay, OT interaction, intermittent leave, healthcare coverage, “son or daughter”
- How paid sick & family leave programs interact with each other and existing programs
- Documentation & Recordkeeping requirements

# Families First Coronavirus Response Act, Paid Sick Leave



## Top Questions & Attempted Answers

- Worksite closures, layoffs and furloughs;
- Some CBA guidance, but more needed;
- “Essential Business” confusion;
- “Health Care Provider” & “Emergency Responder” exemption; and
- Small Business (under 50 employee) exemption applicability & under 25 employee flexibility around job protection.

# Families First Coronavirus Response Act, Paid Sick Leave



**WAGE AND HOUR DIVISION**  
UNITED STATES DEPARTMENT OF LABOR

## Wage & Hour Division's "COVID-19 and the American Workplace" Resource Website

<https://www.dol.gov/agencies/whd/pandemic>

- Fact Sheets
- Posters
- ✓ Questions and Answers  
<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

# Stephen Sandherr

CEO



## The CARES Act and its Unemployment Insurance Benefits

- The expansion of unemployment benefits
- Important considerations

# Expansion of Unemployment Benefits

## **CARES Act creates temporary UI program for non-traditional workers**

- Self-employed, independent contractors, limited work history

## **CARES Act expands benefits for workers in traditional UI programs**

- Covers period of 1/27/20 to 12/31/20 for up to 39 weeks
- Eliminates waiting periods
- Adds federal benefit of \$600/week to existing state benefit maximum from 4/1/20 to 7/30/20
- Those on sick leave, other paid benefits or teleworking ineligible

# Expansion of Unemployment Benefits



## Important Considerations

- CARES Act Creates Perverse Incentive: Many construction workers may make more \$ by staying home if laid off
- Some GOP Senators tried to remove this provision but failed
- During Great Recession many firms reported that recalled workers preferred to wait out 99 weeks of UC benefits
- Will this repeat when industry returns to normal operations?

# Jimmy Christianson

Vice President, Government Relations



## What's Next?

- Upcoming on our 8-part webinar series
- Stay tuned for soon to come webinars that provide: (1) a deeper dive into the new lending programs, tax relief and cash flow management; and (2) union contractor specific issues
- Questions & Answers

# Navigating the Outbreak: An Eight Part Webinar Series on the Factors that Construction Companies Need to Consider, as They Strive for Business Continuity



- March 31: Part VII: The Additional Pressure that the Outbreak Could be Putting on Your Information Technology
- April 1: Part VIII: What You Need to Watch, as the Outbreak Continues to Unfold
- Register here for the series (free to AGC Members):  
<https://na.eventscloud.com/ereg/index.php?eventid=537770&>
- Stay tuned for soon to come webinars that provide: (1) a deeper dive into the new lending programs, tax relief and cash flow management; and (2) union contractor specific issues.

# ConstructorCast COVID-19 Special Edition – Ep. 1



There is so much going on in Washington DC, especially the last two weeks. We brought together our team of lobbyists who have worked to help craft the coronavirus relief bill that is set for a vote as early as today (March 27, 2020) in the House. They provided an analysis of what is in the measure and how it could help the construction industry.

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**Questions?**