

**DEPARTMENT OF TRANSPORTATION**ADMINISTRATION  
DIVISION OF SAFETY AND MANAGEMENT  
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www.dot.ca.govMaking Conservation  
a California Way of Life.

April 6 2020

**CONFIDENTIAL**Jeff Hunerlach  
District Representative, District 40  
International Union of Operating Engineers Local #3  
1330 Bayshore Way, Suite #103  
Eureka, CA 95501

Dear Mr. Hunerlach:

This is the Department's response to the grievance (CT# T-080) that you filed on behalf of all Caltrans Yards in Humboldt and Del Norte Counties of District 1. The grievance was received in this Division on March 27, 2020. In the grievance you allege violation of Article 14.12 (Health and Safety Grievances) from the July 1, 2015 through July 1, 2020, Bargaining Unit 12 (BU 12) Memorandum of Understanding (MOU).

Specifically, you allege:

*"I received several phone calls from various Cal Trans members that Cal Trans was not complying with the "Shelter in Place" orders from the California Governor. I have personally seen Cal Trans workers in vehicles with two people, not adhering to the six feet social distancing guidelines. I contacted Cal Trans management and expressed my concern for the worker's safety and was reassured that steps were being implemented. Since that time, I've received more phone calls and emails stating that the circumstances have not changed."*

As a remedy, you have requested the following:

*"Implement increased social distancing per "Shelter In Place" order (6 feel distance). For example, within the crew room and for traveling to and from work locations in state vehicles, and all ground operations, the social distancing should be in place. We would also ask that Cal Trans recognize the OSHA Guidelines for the COVID-19 Precautions. Although these are OSHA guidelines, not new legal standards, we believe the safety of your workers and our members is paramount and enforcing these guidelines imperative."*

Most relevant in the discussion of the grievance is Article 14.12 Health and Safety Grievances as cited below:

*"14.12 Health and Safety Grievances*

- A. *When an employee or IUOE in good faith believes that the employee is being required to work where a clear and present danger exists, the supervisor will be so notified. The supervisor will immediately investigate the situation (unless circumstances do not permit, the supervisor will endeavor to check with a higher level of management or with a departmental safety officer) and either direct the employee to temporarily perform some other task or proclaim the situation safe and direct the employee to proceed with assigned duties in writing. If IUOE or the employee still believes the unsafe conditions exist, IUOE or the employee may file a formal grievance. For health and safety grievances, the employer will respond within 24 hours at level 1 and within 3 days at level 2.*
- B. *If the grievance is not resolved at the department level of appeal, IUOE shall have the right to submit the grievance to the BOA pursuant to Article 14.9."*

The Division of Safety and Management Services takes the safety of all Caltrans employees seriously and immediately conducted an investigation upon receipt of this grievance. The investigation determined the following:

On March 19, 2020, the United States Department of Homeland Security Cybersecurity and Infrastructure Security Agency (CISA) posted on their government website "Guidance on the Essential Critical Infrastructure Workforce" which is based on Presidential Policy Directive 21 (PPD-21). It identifies sixteen (16) "critical infrastructure" sectors, including the Transportation Systems Sector. In response to the aforementioned information posted on CISA's website, California Governor, Gavin Newsom, signed Executive Order N-33-20, which designated a list of essential critical infrastructure workers to maintain continuity of functions "critical to public health and safety, as well as economic and national security." As a result, maintenance workers for the Department are required to report to work and perform their essential functions supporting the critical infrastructure of the transit network.

The Department is well aware of the concerns of its maintenance workers and is doing everything possible to keep them safe while they perform their vital role. The Department statewide has implemented a number of new policies in response to this crisis including many management memos and new policies and directives designed to reduce employee exposure while performing essential functions. The Division of Maintenance has implemented specific policies regarding preventative measures mandating cleaning of equipment, vehicles, and touch surfaces, guidance on using Personal Protective Equipment (PPE) correctly, implementing social distancing to meeting areas, limiting cab compartment occupancy where possible to single employees, and utilizing fleet optimization contracts where possible to further reduce employee exposure. We have attached the latest Memo from the Division of Maintenance to assist you in understanding the Department's response. Further the Division of Equipment has sent out additional guidance to managers and supervisors for the cleaning and disinfecting

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vehicles and equipment. Finally, the Department is working with the Division of Human Resources (DHR) to ensure that employees have the correct and updated COVID-19 guidance, and are able to telework where possible, use all available leaves, disability insurance, and the Employee Assistance Program (EAP) during this time. DHR has also issued a number of Personnel Information Bulletins (PIBs) that employees can access from the Department's Intranet website.

The Grievance specifically names District 1 maintenance, which includes the Humboldt and Del Norte Counties, and the District's response to the pandemic. Upon receipt of this grievance, the Department's Office of Labor Relations immediately contacted the Maintenance program in District 1 and requested an overview of what steps the program was implementing to meet the COVID-19 challenge. The program responded that they were continuing to perform all essential maintenance functions, such as, pothole repair, paving, slide cleanup, snow removal, sanding, sign and stripe maintenance, repairing of stencils, bridge repairs, road hazard removal, accident response, and many other tasks that come up daily. Although the mission has not changed, the program has provided additional flexibility to its employees to deal with the personal disruptions and also limit the exposure to one another. For instance, each Supervisor and Superintendent has discussed rotational or alternate shift possibilities with each crew. Employees have also been granted flexible work schedules to deal with school closures, health concerns, or other concerns due to COVID-19. This includes adjusting their schedule to work evenings, nights, or weekends to reduce their exposure to other staff. Another option has been the approval of leave for staff that do not want to work an alternate shift. According to the program, several staff have been utilizing the above options. Finally, overnight travel has been suspended.

For the staff that are on duty, the program has taken a number of steps, especially with respect to increasing the social distancing, that is the requested remedy for this grievance.

Additionally, where possible, only one person per vehicle cab will be allowed, along with some crew members having been assigned their own vehicle to reduce contamination. Some exceptions may include placing/picking up lane closures and transporting equipment when other options are not possible. The District is also utilizing nine (9) pool cars and rental cars to assist with single occupancy and is leaving additional crew members in the yard to conduct sanitizing operations. The program is also looking into obtaining additional hand sanitizer to augment current PPE such as boots and gloves. Other social distancing measures include conducting tailgate safety meetings in small groups to reduce the overall group size. This includes having only two or three in a room when a safety meeting needs to be viewed on the monitor. In these meeting areas, chairs will be placed a minimum of 6' feet apart. Crews may also conduct some of these meetings in larger barns where heaters may be provided for comfort. Staff have also been instructed to avoid idle time in the breakrooms. When possible, work assignments and instructions may be given out the night before so workers can grab the keys to their issued vehicles and head out of the yard quickly. Ultimately, as cited above, the department has taken and is continuing to take actions to keep employees safe, the onus to maintain the prescribed 6 feet of social distancing is on the employees themselves.

Finally, the district has also implemented the following increased cleaning protocols.

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Staff have been instructed to clean vehicles and bathrooms on a daily basis including sanitizing everything in the vehicle cab. Further, each crew plans to spend at least a half day or longer each week disinfecting vehicles, crew rooms, barns, and bathrooms.

Based upon the investigation and evidence presented above, we find no violation of Article 14.12 (Health and Safety Grievances) of the BU 12 MOU. The Department is doing everything practicable in this unfolding crisis given the continuing maintenance requirements, including utilizing the social distancing requested. Therefore, this grievance and requested remedy is considered resolved. We recognize the situation is fluid and are available to address the Union's input and concerns. The Department reserves the right to take additional measures necessary to safeguard employees.

If you have any questions regarding this matter, please call Mr. Tal Greenberg, Labor Relations Officer, at (916) 227-6675.

Sincerely,



AARON OCHOCO, Chief  
Division of Safety and Management Services

Enclosure: Caltrans Division of Maintenance Direction and Guidance in Response to COVID-19  
Pandemic

c: Matthew Brady, District Director, D1  
Tom Fitzgerald, Deputy District Director of Maintenance, D1  
Jana Hollifield, Deputy District Director of Administration, D1  
Daniel Ramirez, Caltrans Maintenance Manager II, D1  
Andrea Vine, Assistant Division Chief, DSMS  
Kevin Perez, Labor Relations Manager, DSMS  
Tal Greenberg, Labor Relations Officer, DSMS

**Caltrans Division of Maintenance  
Direction and Guidance in Response to COVID-19 Pandemic  
March 27, 2020**

Caltrans Maintenance Employees,

Thank you for all you are doing to ensure the continuity of our operations and providing the necessary public services to all Californians. As the COVID-19 emergency continues to evolve, we need to stay diligent in continuing to provide and incorporate additional guidance that addresses longer-term planning to keep our maintenance workforce safe and healthy while continuing our work. With that in mind, I would like to strongly encourage everyone to take the time to read and understand the following direction and guidance below and attached, in response to the current State of Emergency in California declared as a result of the COVID-19 pandemic. As the COVID-19 pandemic challenges continue to grow, the direction and guidance could change by the hour and I will continue to do my best to keep you all informed.

Thank you again for your service and be safe.

Dennis T. Agar, Chief  
Division of Maintenance

❖ **Mission Critical Essential and Business Critical Functions (Redirection of Staff)**

- As noted in Director Tok's Memorandum dated March 19, 2020, staff that are not able to telework and/or are not assigned to mission critical essential or business critical functions, district management and supervisors need to redirect properly trained staff or provide staff the necessary training, equipment and PPEs, to work on mission critical essential or business critical functions, such as, but not limited to field maintenance safety activities, SB-1 MAPP activities, etc. Please refer to the attached document "Caltrans Mission Business\_Important\_Deferred Functions\_032720.xlsx" (Attachment 1) for the definitions and list of, but not limited to, maintenance work functions for each priority.

❖ **Preventive Measures**

Measures for protecting workers from exposure to COVID-19 depend on the type of work being performed and exposure risk, including potential for interaction with infectious people and contamination of the work environment.

Cal/OSHA recommends employers follow recommendations from the Centers for Disease Control and Prevention (CDC). These following guidelines include infection prevention measures:

- Stay home if you are sick.
- Inform your supervisor if you have a sick family member at home.

- Ensure that needed supplies such as, but not limited to cleaning, restroom, personal protective equipment (PPE) are stocked as much as possible.
  - Utilize water bottles in lieu of a shared water cooler to avoid multiple employees touching the spigot.
  - Practice social distancing by avoiding large gatherings and maintaining distance (approximately 6 feet or 2 meters) from others when possible. See section on Social Distancing below.
  - Continue to follow the Maintenance Manual, Volume I, Chapter 8 – Protection of Workers, Section 8.07 – Personal Protective Equipment (PPE). Do not share PPEs. Do not stockpile masks and disposable nitrile gloves.
- \* Note, the CDC advises the following pertaining to wearing face masks:
- **If you are sick:** You should wear a facemask when you are around other people (e.g., sharing a room or vehicle) and before you enter a healthcare provider's office. If you are not able to wear a facemask (for example, because it causes trouble breathing), then you should do your best to cover your coughs and sneezes, and people who are caring for you should wear a facemask if they enter your room. Stay home if you are sick.
  - **If you are NOT sick:** Do not wear a facemask unless you are caring for someone who is sick (and they are not able to wear a facemask). Facemasks are in short supply and should be saved for caregivers.
- If an employee brings their dust mask from home (N95 respirator or higher) and wears it during work hours, they must do the following:
    - Read and sign Chapter 15, Appendix B of the Caltrans Safety Manual
    - Review the user instructions for the dust mask used
    - Review procedures to properly don, doff, and perform a user seal check
  - The guidance for voluntarily wearing a dust mask, as well as the necessary forms and training materials are available in the Attachment 5 PowerPoint, "Voluntary Use of Dust Masks for COVID-19." This guidance only applies to N95 respirators or higher. Not surgical masks.

### ❖ **Social Distancing**

Social distancing (creating physical space between individuals) is critical to protecting public health and slow the rate of transmission of COVID-19. The key is to minimize situations where people gather as much as possible and to achieve space (approximately six feet is advised) between individuals in our daily work activities.

- Employees should maintain the advised six feet distance between individuals when traveling together in a vehicle to and from a work site. If it is not possible to achieve the social distance between passengers/driver, then it is advised to drive separately.

❖ **Statewide Efforts**

- Implementing a new Type C Vehicle Home Storage Permit (VHSP) option for short-term use during the Governor's declared State of Emergency. This option will approve a VHSP for up to 90 days.
- Implementing lane closure extensions/longer work windows.
- Implementing fleet optimization in districts.
- Implemented Maintenance Policy Directive, MPD 20-02, Directions on Encampment Removals due to COVID-19 Pandemic.

[https://maintenance.onramp.dot.ca.gov/downloads/maintenance/files/maint\\_admin/directives\\_memos/MPD%2020-02\\_Signed.pdf](https://maintenance.onramp.dot.ca.gov/downloads/maintenance/files/maint_admin/directives_memos/MPD%2020-02_Signed.pdf)

- Directed Special Programs People to work on essential functions such as, but not limited to, deep clean safety roadside rest area facilities, perform weed and vegetation control using hand tools, paint over or remove graffiti of offensive nature or safety related concerns, and trim or remove unwanted, unsightly, dead, overgrown brush and trees within the right of way.

**EMPLOYEE CONTRACT GRIEVANCE / COMPLAINT**

STD. 630 (Rev. 10/2019)

BARGAINING UNIT NAME BU12 Craft and Maintenance	BARGAINING UNIT NUMBER (Circle one) 1 2 3 4 5 6 7 8 9 10 11 <u>12</u> 13 14 15 16 17 18 19 20 21
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**Please refer to your bargaining unit's contract for specific information regarding employee grievance procedures and time frame requirements.**

GRIEVANT'S NAME All Affected	HOME TELEPHONE NUMBER (Include area code) 707-825-0227		
HOME ADDRESS (Number and Street) 1656 Union St.	(City) Eureka	(State) CA	(Zip Code) 95501
DEPARTMENT Transportation	DIVISION OR FACILITY Maintenance	SECTION, BRANCH, UNIT, ETC. All CalTrans Yards in Hum/Del Norte	
POSITION CLASSIFICATION All Classifications	NORMAL WORKING HOURS M-TH 6:30am-5:00pm	WORK TELEPHONE NUMBER (Include area code) 707-498-0574	

**REPRESENTATION INFORMATION (Complete if applicable)**

REPRESENTATIVE'S NAME Jeff Hunerlach, District Representative	ORGANIZATION AFFILIATION Operating Engineers Local #3	TELEPHONE NUMBER (Include area code) 530-966-1204
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**GRIEVANCE INFORMATION**

DATE OF ACTION CAUSING GRIEVANCE 3.20.2020 until present	DATE OF INFORMAL DISCUSSION WITH IMMEDIATE SUPERVISOR 3.23.2020	DATE OF INFORMAL RESPONSE 3.25.2020
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**GRIEVANCE DESCRIPTION (Clear, concise statement. Attach additional sheets if necessary.)**

I received several phone calls from various Cal Trans members that Cal Trans was not complying with the "Shelter in Place" orders from the California Governor. I have personally seen Cal Trans workers in vehicles with two people, not adhering to the six feet social distancing guidelines. I contacted Cal Trans management and expressed my concern for the worker's safety and was reassured that steps were being implemented. Since that time, I've received more phone calls and emails stating that the circumstances have not changed.

**SPECIFIC ARTICLE(S) AND SECTION(S) OF CONTRACT ALLEGEDLY VIOLATED**

14.12 (a)

**SPECIFIC REMEDY SOUGHT**

Implement increased social distancing per "Shelter In Place" order (6 feet distance). For example, within the crew room and for traveling to and from work locations in state vehicles, and all ground operations, the social distancing should be in place. We would also ask that Cal Trans recognize the OSHA Guidelines for the COVID-19 Precautions. Although these are OSHA guidelines, not new legal standards, we believe the safety of your workers and our members is paramount and enforcing these guidelines imperative.

GRIEVANT'S SIGNATURE 	DATE FILED 03-25-2020
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(For grievance level reviews I through IV, continue on reverse.)


03-25-2020 09:31:13



**EMPLOYEE CONTRACT GRIEVANCE / COMPLAINT**

STD. 630 (Rev. 9/2013) (REVERSE)

**GRIEVANCE REVIEW--LEVEL I**


DATE RECEIVED	LEVEL I REVIEWER (Signature) 	RESPONSE DATE
REVIEWER'S PRINTED NAME AND TITLE	TELEPHONE NUMBER (include area code)	

**LEVEL I DECISION**

<input type="checkbox"/> I concur and do not appeal to the second review level	<input type="checkbox"/> I do not concur and appeal to the second review level (State reason below)	GRIEVANT'S SIGNATURE	DATE SIGNED
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REASON FOR APPEAL

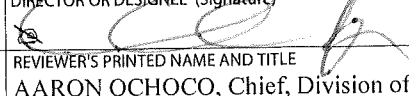
**GRIEVANCE REVIEW--LEVEL II**

DATE RECEIVED	LEVEL II REVIEWER (Signature) 	RESPONSE DATE
<input type="checkbox"/> Decision attached	REVIEWER'S PRINTED NAME AND TITLE	

<input type="checkbox"/> I concur and do not appeal to the third review level	<input type="checkbox"/> I do not concur and appeal to the third review level (State reason below)	GRIEVANT'S SIGNATURE	DATE SIGNED
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REASON FOR APPEAL


**GRIEVANCE REVIEW--LEVEL III--DEPARTMENT DIRECTOR OR DESIGNEE**

DATE RECEIVED March 27, 2020	DIRECTOR OR DESIGNEE (Signature) 	RESPONSE DATE 4/10/2020
<input checked="" type="checkbox"/> Decision attached	REVIEWER'S PRINTED NAME AND TITLE AARON OCHOCO, Chief, Division of Safety & Management Services	

<input type="checkbox"/> I concur and do not appeal to the third review level	<input type="checkbox"/> I do not concur and appeal to the third review level (State reason below)	GRIEVANT'S SIGNATURE	DATE SIGNED
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REASON FOR APPEAL

**GRIEVANCE REVIEW--LEVEL IV--DEPARTMENT OF HUMAN RESOURCES**

DATE RECEIVED	DIRECTOR OR DESIGNEE (Signature) 	RESPONSE DATE
<input type="checkbox"/> Decision attached	REVIEWER'S PRINTED NAME AND TITLE	