

Industry Update 4/1/20

Today's audio recaps the webinar on Legal Issues in Electrical Contracting Related to COVID-19 hosted by NECA's General Counsel Jeff Fagan. The text below are some of the most frequently asked questions in regard to FFCRA and how they were answered in the webinar.

1. If a contractor closes a worksite either before or after April 1, does it still have to paid sick leave or expanded family and medical leave?

No. if employees are sent home because of no work there is no requirement to pay sick leave or expanded family medical leave. Employees can however apply for unemployment. Those unemployment Benefits are governed by state law.

2. If a contractor furloughs an employee on or after April 1, does it need to pay sick leave or expanded family and medical leave?

No. If there is no work the employee is not entitled to sick leave. However they are entitled to unemployment.

3. Can a contractor furlough some employees, but remain open for others while not paying furloughed employees the FFCRA wages?

Yes. If done for business necessity, those employees furloughed are no longer employees and are not entitled to wage payments under the FFCRA.

4. Is the mandatory paid leave just wages or benefits as well? In other words, are fringe benefits in the CBA, regardless of how they are calculated, owed on the pay either from the FMLA or Emergency Sick Leave Act?

FFCRA only speaks to wages and health benefits. Health Benefits in place must be maintained. Other fringes depend on CBA and trust documents that govern those benefits and payment calculations. We do know from legislation that the amendment to the FFCRA expands the credit to include the employers cost of providing health care coverage to employees during a leave under the emergency paid family medical leave act and under the paid sick leave act. This applies to the amount an employer paid to the health plan coverage on an employee with such a paid leave which is excluded from an employees gross income for federal tax purposes. Cost of group health plan coverage for an employee on such leave is added to the wages paid on the qualifying paid leave and credit is reimbursed for that. Trustees say NEBF benefits must be maintained on the gross labor payroll attributed to the FFCRA wages.