

ARCA/MCA
Southern California

1939 years **2018** **79**

Quarterly Update April - June 2018

JJATC

70th Anniversary / Open House / Job Fair 2018



To recognize 70 years of HVACR training in Southern California, an Open House / Job Fair will be held on Friday, October 5th, 2018 at the JJATC 2220 S. Hill St., Los Angeles, 90007.

Events will include classroom demonstrations by JJATC Instructors, the UA HVACR Service Trailer, vendor prizes and giveaways, "Service Truck" show and tell for guests, AC&R Museum tour, morning refreshments and a catered lunch.

In addition to all District Council members and Signatory Contractors, our partner Trade Schools and Community Colleges will be invited to attend. Those students will be encouraged to bring a resume. This will provide an opportunity for our Contractors to interview the future of our trade. Flyers will be posted at various vendor locations to encourage non-affiliated technicians seeking union employment.

Labor and Management involvement will be necessary to make this inaugural event a success. More event details to follow. Thank you in advance for your participation.

ARCA/MCA Southern California

ARCA/MCA Annual Membership Meeting

Date: Thursday, October 11, 2018



**Time: 5:00 pm - 9:00 pm
(Dinner will be served)**

**Location: Pacific Palms Resort
(City of Industry, CA)**

Mechanical Contractors Association of America



The Great Futures Forum

Date: September 27 - 29, 2018

Location: The Anaheim Marriott

This annual conference is designed to connect future professionals with MCAA members and future internship and full-time employment opportunities. Set in Anaheim, the forum gives MCAA Student Chapter members the opportunity to network with industry leaders and learn about the ongoing changes in the field and the advantages of working in mechanical contracting.

Service Manager Roundtable

On Wednesday, June 28, the Service Managers Roundtable held its meeting at the Los Angeles JJATC Training Center. The meeting was well attended and focused on the new curriculum offerings for each of the employee classifications; Journeyman, Apprentices, Mechanical Equipment Servicemen (MES) and Tradesmen. Training Committee members spoke to the Service Managers reviewing the mission of each training committee to advance the educational offerings this September. After the presentations, a tour of the facility was conducted for all present, showing many of the new features and equipment that has been updated for the September programs.

The Service Managers Roundtable will meet again on Thursday, November 8th, when representatives of Bluon Energy will present information about its replacement product for R-22. Save the date!

California Legislative Conference (CLC) - UPDATE

California Supreme Court Adopts Broad New Misclassification Test

The California Supreme Court has adopted a new legal standard that will make it much more difficult for businesses to classify workers as independent contractors. Specifically, the court adopted a new standard for determining whether a company "employs" or is the "employer" for purposes of the California Wage Orders.

Under the new "ABC" test, a worker is considered an employee under the Wage Orders unless the hiring entity establishes all three of these prongs:

A) the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;

- B) the worker performs work that is outside the usual course of the hiring entity's business; and
C) the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

This decision not only expands the definition of "employee" under the California Wage Orders, it also imposes an affirmative burden on companies to prove that independent contractors are being properly classified.

From an industry standpoint, this decision is a seismic shift for California wage and hour law. The nonunion sector will have a much more difficult time classifying employees as independent contractors. The court now imposes a burden on businesses to defend their classification of workers as independent contractors. Misclassification of such workers will result in significant legal exposure with respect to wage and hour compliance.

Federal OSHA Reporting Requirement

Effective January 1, 2017, employers in states regulated by federal OSHA were required to electronically submit Log 300 records of injuries and illnesses. As this was a federal program change, state-run safety and health programs like CalOSHA were required to respond and comply to the change.

CalOSHA has not yet completed its review of this change.

However, on April 30, 2018, federal OSHA posted a "trade release" requiring all affected employers to submit injury and illness data in the federal OSHA Injury Tracking Application (ITA) online portal, even if the employer is covered by a state plan that has not completed adoption of their own state rule.

Please review the following link:

<https://www.dir.ca.gov/dosh/calosha-updates/log300-reporting.html>

The links contained in the notice provide instructions on how to access the ITA.

Construction employers with a workforce from 20 -249 employees must report their log 300 information for the year 2017 through the ITA portal by July 1, 2018.

Immigration Worker Protection Act

We are reminding contractors that in 2017 California passed a new law, the Immigration Worker Protection Act that prohibits employers from voluntarily cooperating with ICE. In brief, under the new law, employers are prohibited from allowing immigration enforcement agents into non-public areas of the workplace without a judicial warrant and from allowing ICE agents to access, review or obtain employee records without a subpoena or judicial warrant. (There is an exception to this requirement for Notices of Inspection, which are generally letter requests for Form I-9s and sent to an employer at least 3 days in advance of the inspection). The new law also requires employers to provide their employees with certain written notices when the employer is notified that it will be inspected by ICE. (The Labor Commissioner is required to develop a template notice before July 1, 2018, which it will likely make available on its website). Employers who violate the new law will be subject to penalties ranging from \$2,000 to \$5,000 for first violations, and \$5,000 to \$10,000 for subsequent violations.

It's recommended that contractors educate their managers and any employees likely to encounter an ICE agent (such as receptionists, security officers, jobsite foremen, etc.) not to provide access to ICE agents unless they produce a judicial warrant, and not to voluntarily provide them with any employee records. Field employees should be advised to contact a foreman or management if approached by ICE, and to take a picture of any "official-looking" paperwork presented by ICE to send to a manager (if the manager is not present) or to your main office for review. Managers/foremen should also be instructed to contact upper management if approached by ICE, and to provide upper management with any "official-looking" documents presented by ICE. ICE agents should be politely told to wait in a public area (which may be outside or on the street, in some cases) until they have contacted upper management. ICE agents may act like they have the authority to demand access to employee records or non-public work areas without a warrant or subpoena, they do not—giving in to their demands when they do not have the proper documentation may subject the company to penalties.

If contractors are not doing so already, you should keep all Form I-9s in a separate file. (You can put a copy of the employee's Form I-9 in their personnel file as well). You should also be using the most recent Form I-9 for new hires. Following is a link to the current Form I-9 (released Jul. 17, 2017): **<https://www.uscis.gov/i-9>**

In early January, 2018, US Immigration and Customs Enforcement also updated its I-9 Handbook for Employers (available at <https://www.uscis.gov/i-9-central/handbook-employers-m-274>) which we suggest you print out for your office or jobsite use.

Conducting an I-9 audit, is also recommended.

[MISSION STATEMENT](#) | [MEMBERS](#) | [CALENDAR](#) | [COMMITTEE MEMBERS](#) | [CONTACTS](#)

ARCA/MCA | 909.477.4515 | contact@arcamca.org | <http://www.arcamca.org>

ARCA/MCA provides this information as a service to its friends and clients. This Newsletter is of a general nature and is not intended to be a substitute for legal advice. This Newsletter does not establish an attorney-client relationship with the reader. Since laws are ever changing, please contact an attorney before using any of the information contained within this Newsletter.