

5 must knows for NYC Construction Phase 1 - by Peter Simon

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In mid-May of 2020 New York State Department of Health released guidance for construction activities and a COVID-19 safety plan template. These documents represent the new normal of what a NY State construction site will look and function like at least for the immediate future. At the bottom of the 9 page detailed guidelines businesses are asked to affirm compliance with the New York Reopening Guidance (<https://forms.ny.gov/s3/ny-forward-affirmation>). The requirements of the guidance document must be followed for construction sites under the jurisdiction of NY State that are essential or opening under Phase 1. The construction industry guidelines content is similar in format to other re-opening industries and contains four main sections:

People;

Places;

Processes; and
Employer plans.

Below are 5 highlights from the guidance:

Screening Required – The guidelines require daily mandatory health screening under the processes section. Companies are encouraged to use remote systems for screening (such as telephone or electronic means) and the screening process should prevent workers from intermingling in close contact. All visitors and workers should be screened. The minimum responses that should be gathered from the entrant are:

At a minimum, screening should be required of all workers and visitors and completed using a questionnaire that determines whether the worker or visitor has:

Knowingly been in close or proximate contact in the past 14 days with anyone who has tested positive for COVID-19 or who has or had symptoms of COVID-19,
Tested positive for COVID-19 in the past 14 days, or
Has experienced any symptoms of COVID-19 in the past 14 days.

In addition to questionnaires, a common best practice in construction and other industries is temperature taking. Temperature taking will not identify everyone that might be infectious (for example infectious but asymptomatic people), but a temperature of 100.4 or greater is considered a fever and could be a symptom of COVID-19 according to the CDC. Temperature taking is an additional screening tool used to identify symptoms and decrease risk and are recommended by the Federal Government in Opening Up America Again guidance. Depending on the volume of visitors or workers, construction sites are using handheld touchless thermometers and high-volume thermal imaging cameras. Keeping temperature data is prohibited by the NY guidelines as per below.

Daily temperature checks may also be conducted per Equal Employment Opportunity Commission or DOH guidelines. Keeping records of employee health data (e.g. temperature data) is prohibited.

COVID-19 Safety Monitor – Must be designated. One of the main duties of the safety monitor is assuring that the employer or site follow the COVID-19 safety plan and NYS guidelines. On a small site with a very limited number of workers and visitors safety monitor duties could be an additional job duty for the assigned individual. However, for medium to large construction projects these duties will likely need to be assigned to a dedicated individual as a full-time job. Some of the duties required of the safety plan and guidance document could include:

Maintain a cleaning log;
Taking action if workers are symptomatic;

Daily review of screening survey questionnaires;
Maintain an entrant log for visitors and workers;
Monitoring for social distancing and PPE compliance; and various other requirements mandated by the NYS guidance and site safety plan.

A site safety monitor must be designated whose responsibilities include continuous compliance with all aspects of the site safety plan.

COVID-19 Reopening Safety Plan – NYS has released a 7-page safety plan template that can be used to satisfy the COVID-19 workplace safety plan requirement. A site or company could choose to develop its own plan instead of using the template. The plan does not get submitted but instead the COVID-19 guidance document states that, “Completed safety plans must be conspicuously posted on site.” Like NYS Reopening Guidance, the Reopening Safety Plan contains sections entitled: I) People; II) Places; III) Process; and IV) Other. The safety plan template is electronically fillable, and the user is prompted to write in specific details on how the COVID-19 required practices will be implemented. For example, the top of page 5 of the template asks, “What type(s) of daily health and screening practices will you implement? Will the screening be done before employee gets to work or on site? Who will be responsible for performing them, and how will those individuals be trained?”

Training & Meetings – One of the more necessary steps for return to work is increased training. OSHA states that workers have the right to receive information on workplace safety hazards and that workers have the right to “a safe and healthful workplace, which means that hazards are removed, and workers are trained. If a hazard cannot be removed completely, protection (for example, respirators or earplugs) must be provided.”

Additionally, workers that must use PPE must be trained under OSHA standards. NY State has mirrored this requirement in its COVID-19 guidance: “Workers must be trained on how to adequately put on, take off, clean (as applicable), and discard PPE, including but not limited to, appropriate face coverings.”

Another impact of COVID-19 has been the increased use of distance learning and electronic platforms. The NY State guidelines mandate a limit on in-person gatherings as per below. Required training, licensing and certification renewals are now being performed through distance learning. TSC Training academy for example is offering approved NYC Local Law 196, NYC DOB, FDNY and OSHA courses. In addition to distance learning, in-person facilities have been modified to incorporate social distancing, increased cleaning protocols, symptom screening and physical barriers.

In-person gatherings (e.g. shapeups, toolbox talks, safety meetings) must be limited to the greatest extent possible and other methods such as video or teleconferencing must be used whenever possible, per CDC guidance “Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)”. When videoconferencing or teleconferencing is not possible, meetings should be held in open, well-ventilated spaces and it should be ensured that

individuals maintain six feet of social distance between one another (e.g. if there are chairs, leave space between chairs, have employees sit in alternating chairs).

Face Coverings – One very observable change is the increased use of face coverings, required in certain circumstances by NYS guidelines. NYS states that workers must wear face coverings when within six feet of other people and workers must also be prepared to don a face covering if a person unexpectedly comes within six feet.

A distance of at least six feet must be maintained among workers at all times, unless safety of the core activity requires a shorter distance (e.g. dry walling, glazing, lifting). Any time employees must come within six feet of another person, acceptable face coverings must be worn. Employees must be prepared to don a face covering if another person unexpectedly comes within six feet.

In a recent executive order issued on June 7th, NYC mayor de Blasio issued took face cover requirements a step further. This NYC emergency executive order requires everyone (except those with medical conditions) to wear a face covering:

“Any individuals, including employees and visitors, who are present on a construction site and able to medically tolerate a face covering shall wear such a covering at all times.”

In a manner consistent with OSHA, NYS guidelines require that face covering be provided at no costs.

In addition to necessary personal protective equipment (PPE) as required for certain workplace activities, acceptable face coverings must be procured, fashioned, or otherwise obtained, and such coverings must be provided to employees while at work at no cost to the employee.

COVID-19 information is changing on an almost daily basis. People should continue to check the State and Federal websites for modifications. Reading and understanding the current guidance is important for the protection of workers and stopping the spread of disease. If there are any questions please reach out to me or info@totalsafety.org (.)

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