



# HBA University Live Webinar Series

## COVID-19 Construction Guidelines What You Need To Know

For a better quality of life.





# Chérie Talbert

## CEO

HBA of Metro Denver

# Welcome

Welcome to the HBA University Live Webinar Series, an HBA of Metro Denver Membership Platform to provide information and education geared toward issues that affect our members.





**Chérie Talbert, HBA CEO**

Today's webinar is a special collaboration edition. As tired as we all are more than two months into operating our businesses differently due to the global pandemic called COVID-19, professional trade organizations such as HBA's have important roles; to provide as much support and information keeping your businesses and our industry healthy and economically viable while navigating through these challenging times.

I am pleased to introduce Ted Leighty who, as CEO of our state association (CAHB) is a co-collaborator of this webinar to introduce all of those that are part of making this webinar a success and who will highlight our panel of speakers.



**Ted Leighty, CAHB CEO**

Thank you Chérie, we are excited to collaborate with the HBA of Metro Denver on this special webinar edition. It would not be possible without the input and work from HBA of Metro Denver, Colorado Springs HBA, Northern Colorado HBA and our industry friends, the Associated General Contractors.

Our topic is current and needs the kind of clarification we hope to collectively provide all of you. I'd like to briefly introduce our four panelists and we all thank you for your time today

# Today's Speaker Panel



**EJ Olbright**  
CEO CFC  
Construction



**Dan Johnson, CSP**  
Managing Partner  
SFI Compliance, Inc.



**Todd Fredrickson**  
Attorney at Law  
Fisher & Phillips, LLP



**Patrick "Pat" Miller**  
Member  
Sherman & Howard

Now we'll turn it back to Chérie for a quick announcement

# But first a little Housekeeping

Please cursor to the bottom edge of your screen. There you will find a Q&A icon that you will be able to use during the webinar to ask specific questions of the panel.

If you participated in the pre-webinar survey, then your questions are already in the queue. All questions will be managed based on time at the end of the program.

A screenshot of a web browser window titled "Q&A". The window has a white background and a grey border. At the top, there are three small colored circles (red, yellow, green) typical of a window title bar. The main content area is mostly empty, with the text "No question and answer" centered in a grey font. At the bottom of the window, there is a text input field with the placeholder text "Please input your question". To the left of the input field is a checkbox labeled "Send Anonymously". To the right of the input field is a blue button with the text "Send" in white. A red arrow points from the bottom right corner of the window towards the input field.



# *Practical Considerations For Jobsites & Offices*

*EJ Olbright & Dan Johnson*

For a better quality of life.



# COVID-19 Construction Guidelines

## *Practical Considerations For Jobsites & Offices*

*EJ Olbright & Dan Johnson*

For a better quality of life.



# COVID-19 Construction Guidelines

## AGC of America Sample Plan for COVID-19

### Sample Plan for COVID-19 Exposure Prevention, Preparedness, and Response

*Developed by Construction Industry Safety Coalition (CISC)<sup>1</sup> March 25, 2020  
Revised by The Associated General Contractors of America (AGC) March 31, 2020  
Addendum included by The Associated General Contractors of Colorado (AGCC) April 1, 2020*

\*\*\*\*

*Every construction project is different. What is feasible and appropriate for any one project depends on its size, location and other unique characteristics. To help construction contractors develop a sound approach to each of their projects, the CISC is pleased to make this sample plan available. Neither the coalition nor its individual members intend this document to be a definitive statement of the protocols and procedures that are applicable to each and every project. Nor are they endeavoring to provide legal or other professional advice. This document should NOT be construed as legal advice or any other expression of the scope or nature of a construction contractor's legal obligation to provide employment and a safe place of employment to its employees, particularly under the unprecedented circumstances that the COVID-19 outbreak has created. In addition, new and better information could well supersede the information included in this document. As the situation evolves, construction contractors should continue to monitor the environment in which they are working and related developments and react accordingly.*

\*\*\*\*

[Name of Company] (hereinafter "Company") takes the health and safety of our employees very seriously. With the spread of the coronavirus or "COVID-19," a respiratory disease caused by the SARS-CoV-2 virus, the Company must remain vigilant in mitigating the outbreak. The Company is a proud part of the construction industry, which many have deemed "essential" during this Declared National Emergency. In order to be safe and maintain operations, we have developed this COVID-19 Exposure Prevention, Preparedness, and Response Plan to be implemented, to the extent feasible and appropriate, throughout the Company and at all of our jobsites. The Company has also identified a team of employees to monitor the related guidance that U.S. Center for Disease Control and Prevention ("CDC") and Occupational Safety and Health Administration ("OSHA") continue to make available.



# COVID-19 Construction Guidelines

## Sample Plan – “Responsibilities of Employers”

- Develop a COVID-19 Exposure Action Plan
- Conduct COVID -19 Safety Meetings
- Pre-screen all employees/visitors for symptoms

# COVID-19 Construction Guidelines

## Sample Plan – “Responsibilities of Employees”

- Frequently wash your hands
- Avoid touching your face
- Cover your mouth when coughing and sneezing
- Familiarize yourself with the Symptoms of COVID-19
- If you develop a fever and/or symptom of respiratory illness – DO NOT GO TO WORK

# COVID-19 Construction Guidelines

## Sample Plan – “Job Site Protective Measures”

- Anybody showing symptoms must go home
- Avoid contact with others and increase personal space – at least 6 feet
- All in-persons meeting to be limited
- Encouraged to stagger breaks and lunches
- Group size of less than 10 people
- Running water for hand washing where practicable

# COVID-19 Construction Guidelines

## AGC of Colorado Recommended Addendum to AGC of America Sample Plan

### Jobsite / Office Protocol

- We recommend all workers who enter the jobsite are screened (wellness check and/or questionnaire) for any symptoms of illness or COVID-19
- Provide a COVID-19 Health and Safety Orientation for all new workers on the job site.
- Consider providing wash stations for workers at frequent locations around the job site. Consider monitoring for signs of illness in the workplace, if someone is showing symptoms, ask them to leave. They should NOT be allowed to enter an occupied area before leaving.
- Consider prohibiting all guests and visitors to the jobsite
- Post key CDC recommendations signage throughout the jobsite

### Social Distancing

- To limit the number of people on a jobsite, allow non-essential personnel to work from home when possible.
- Work in occupied areas should be limited to only those tasks that are strictly necessary.
- Prohibit handshaking and/or any other contact greetings.
- Don't stack trades if possible.
- Consider staggering entry and exit times for crews working on the project
- Consider one-way traffic at corridors and stairways
- In accordance with PHO 20-24, Critical Businesses must at all times comply with Social Distancing Requirements and all PHOs currently in effect to the extent possible and unless doing so would make it impossible to carry out critical functions.

# COVID-19 Construction Guidelines

## AGC of Colorado Recommended Addendum to AGC of America Sample Plan

### **Worker Personal Responsibilities**

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- **Individuals must notify their supervisors and stay home if they are sick.**
- Employees are urged to take precautions to protect themselves and family members should they fall into any of the high-risk health categories. (e.g., older age; presence of chronic medical conditions, including immunocompromising conditions; pregnancy).
- It is critical that individuals NOT report to work while they are experiencing illness symptoms such as fever and symptoms, such as a cough or difficulty breathing/shortness of breath. They should contact a healthcare provider for medical advice.
- Individuals shouldn't share or pass around mobile devices (iPad, table or mobile phone), personal tools, office supplies and/or commonly shared items.
- Consider encouraging workers to NOT carpool

### **Jobsite Daily Questionnaire**

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Designated site personnel should ask the screening questions (on attached sample plan) to all employees, workmen and visitors prior to entering the work area. If they answer "yes" to any, they should be asked to leave the jobsite immediately and not return until cleared to do so.

### **Sanitation and Cleanliness**

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- Identify specific locations and practices for daily trash such as: paper, hand towels, food containers, etc. Instruct workers responsible for trash removal in proper PPE/hand washing practices.
- Encourage workers to change work clothes prior to arriving home; and to wash clothes in hot water with laundry sanitizer.
- Utilize disposable hand towels and no-touch trash receptacles.
- Request additional/increased sanitation (disinfecting) of portable toilets, as well as added toilets on the site to decrease frequency of use of each unit.
- Double check that hand sanitizer dispensers are filled – if not, fill them. Frequently touched items (door pulls and toilet seats) should be disinfected frequently, ideally after each use.

# COVID-19 Construction Guidelines

## Colorado Department of Public Health and Environmental “PHO 20-28 & Multi-Industry Construction Guidance”



THIRD AMENDED PUBLIC HEALTH ORDER 20-28 SAFER AT HOME  
May 14, 2020

### PURPOSE OF THE ORDER

I issue this Amended Public Health Order (PHO or Order) pursuant to the Governor’s directive in **Executive Order D 2020 044 Safer at Home** in response to the existence of thousands of confirmed and presumptive cases of Coronavirus disease 2019 (COVID-19) and related deaths across the State of Colorado. Further, as there is substantial evidence of community spread of COVID-19 throughout the State, it is crucial to take measures now that can mitigate further spread of disease in our communities.

### FINDINGS

1. Governor Polis issued Executive Order D 2020 003 on March 11, 2020, declaring a disaster emergency in Colorado due to the presence of COVID-19. Since that time, the Governor has taken numerous steps to implement measures to mitigate the spread of disease within Colorado, and has further required that several public health orders be issued to implement his orders.



Coronavirus Disease 2019

## COVID-19

MULTI-INDUSTRY CONSTRUCTION GUIDANCE

### Introduction

Construction worksites, projects and companies are **not exempt** from Social/Physical Distancing Requirements, even if compliance means added cost. Hygiene protocols are **strictly required**. Moreover, people who are sick or at high risk of severe illness from COVID-19 **must not travel to work, even if they work for a critical business**. This guidance clarifies how social and physical distancing requirements should be applied to the construction sector during the “Safer-at-Home” period, recognizing certain aspects of this workplace environment that make it unique from other sectors explicitly addressed in the Safer-at-Home public health order.

### Social/physical distancing on construction worksites

Critical functions, including construction, work **MUST** comply with social/physical distancing requirements. The following practices are important for applying social distancing to a construction worksite setting:

- **Reduce size of work crews:** Teams should reduce the number of people in each work crew to the minimum number of people possible to perform the task safely, even if the reduction of crew size means the job takes longer.



# COVID-19 Construction Guidelines

## CFC Construction Daily Safety Check List

COVID-19 Daily Safety Check List	
TYPE: Safety	TRADE:
<b>DESCRIPTION:</b>	
COVID-19 Site inspection to be completed daily by the designated person on site. NOTE: Employee completing this check list must be COVID-19 trained and will have the authority to stop work.	
<b>ATTACHMENTS:</b>	

Pandemic Officer PPE	
1.1	Disposable Gloves
1.2	Breathing Face Cover
1.3	Protective Clothing (Tyvek or other protection for possible exposure to COVID-19)
1.4	Face Shield

Project Level Requirements	
2.1	Adequate cleaning/disinfecting supplies (e.g., wipes, cleaning solutions, paper towels, etc.)?
2.2	Bleach solutions are properly measured.
2.3	Adequately supplied/clean bathrooms?
2.4	Adequate washing stations/hand sanitizers?
2.5	Do Subcontractors have adequate cleaning/ disinfecting supplies?
2.6	Do Subcontractors have hand washing/ sanitizers available to their employees?
2.7	Plan for break times/areas for spacing of employees?
2.8	All COVID-19 Signage is Properly Displayed in Conspicuous Locations
2.9	Safety meetings/alerts in individual groups/ spaces?
2.10	Cleaning of shared equipment (forklifts, trucks, tools, etc.) Pre/ post shift?
2.11	Evaluation of employees by supervisors for signs of COVID-19?
2.12	Social distancing practiced at entry gate?
2.13	Social distancing practiced throughout job site?
2.14	Right-Of-Way Corridors and Stairs Enacted and Enforced.

2.15	Proper PPE for those performing tasks that require working inside 6' radius.
2.16	Delivery drivers stay in truck or are properly oriented and have proper PPE.

Treatment Areas (treat all commonly touched surfaces with bleach solution)	
3.1	Access Ladders
3.2	All Stairways
3.3	Guard Rails
3.4	Portable Toilet Door Handles and Seats
3.5	Portable Wash Stations
3.6	All Shared Entry Ways and Doors
3.7	Any Hand Touch Surfaces in High Traffic Areas

Project Office	
4.1	Frequent cleaning of highly touchable surfaces (e.g., doorknobs, tables, chairs, refrigerators, workstations, microwaves, copiers etc.)?
4.2	Adequate cleaning/disinfecting supplies (e.g., wipes, cleaning solutions, paper towels, bleach and spray bottles, etc.)?
4.3	Bleach solutions are properly measured.
4.4	Adequate hand washing facilities and restrooms (hand sanitizers, soap and water)?
4.5	Proper spacing (6 feet) of workstations to allow for proper spacing? Adequate office supplies available?
4.6	Proper coordination and conducting of required meetings (social spacing, conference calls, Skype, etc.)?

# COVID-19 Construction Guidelines

## CFC Construction Check-In

### COVID-19 Employee Health Screening Form for Onsite Screening

Screen each employee for symptoms before they start their shift. Circle an answer (y=yes, n=no) for each symptom for each employee. If an employee reports any of the symptoms:

1. Send employee home immediately.
2. Increase cleaning in your facility and ensure staff are least 6 feet apart from one another.
3. Exclude employee until they are fever-free (without medication) for 72 hours and 10 days have passed since their first symptom unless they have a clear alternative diagnosis from a medical provider.
4. If multiple employees have symptoms, contact your local health department.

Employer, retain these forms in a secure place for three months, and provide the forms upon request from public health agencies.

Company Name: \_\_\_\_\_

Supervisor Name Completing Form: \_\_\_\_\_

Employee Name	Safety Orientation Number (Hardhat Sticker Number)	Check Symptoms Daily, Before Starting Shift						
		Fever 100.4°F or above	Cough	Shortness of breath or difficulty breathing	Chills	Muscle aches	Sore Throat	New Loss of taste or smell
		Y N	Y N	Y N	Y N	Y N	Y N	Y N
		Y N	Y N	Y N	Y N	Y N	Y N	Y N

# COVID-19 Construction Guidelines

Updated AGC of America Sample Plan, CDPHE's PHO,  
CDPHE's Multi-Industry Construction Guidance and  
other COVID-19 resources:

**[agccolorado/best-practices-for-construction](#)**



# COVID-19 Construction Guidelines

## OSHA Enforcement



UNITED STATES  
DEPARTMENT OF LABOR



Occupational Safety and Health Administration

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[Enforcement Memos](#) / [Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 \(COVID-19\)](#)

May 19, 2020

**MEMORANDUM FOR:** REGIONAL ADMINISTRATORS  
STATE PLAN DESIGNEES

**THROUGH:** AMANDA EDENS  
Deputy Assistant Secretary

**FROM:** PATRICK J. KAPUST, Acting Director  
Directorate of Enforcement Programs

**SUBJECT:** Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19)

This Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19) provides instructions and guidance to Area Offices and compliance safety and health officers (CSHOs) for handling COVID-19-related complaints, referrals, and severe illness reports. On May 26, 2020, the previous memorandum on this topic<sup>[1]</sup> will be rescinded, and this new Updated Interim Enforcement Response Plan will go into and remain in effect until further notice. This guidance is intended to be time-limited to the current COVID-19 public health crisis. Please frequently check OSHA's webpage at [www.osha.gov/coronavirus](http://www.osha.gov/coronavirus) for updates.



# COVID-19 Construction Guidelines

## What are Home Builders doing?

### If you are Sick, Stay Home!

- Health Screening check in station
  - All site workers fill out forms daily to verify they are healthy.



# COVID-19 Construction Guidelines

## What are Home Builders doing?

### If you are Sick, Stay Home!

- Screening Verification Forms
  - Sent directly from subcontractors to Home Builders

#### COVID-19 Screening Verification

##### COVID-19 Verificación de cribado

(This form is to be completed by Subcontractors/Suppliers/Other Project Visitors each day prior to work)

(Este formulario debe ser completado por subcontratistas/proveedores/otros visitantes del proyecto cada día antes del trabajo)

In order for individuals to gain entry to the project site, they must first be screened for factors associated with COVID-19 infection. It is the subcontractor's responsibility to screen all of their employees, sub-tier subcontractors, and others for which they are responsible. The following screening questions should be asked daily and prior to each shift. This form must be provided to site supervision prior to any worker entering the project to work. Entry to the project site may be denied based on the information provided during the screening.

Para que las personas puedan entrar en el sitio del proyecto, primero deben ser examinadas para detectar factores asociados con la infección COVID-19. Es responsabilidad del subcontratista examinar a todos sus empleados, subcontratistas de subnivel y otros de los que son responsables. Las siguientes preguntas de selección deben hacerse diariamente y antes de cada turno. Este formulario debe proporcionarse a la supervisión del sitio antes de que cualquier trabajador ingrese al proyecto a trabajar. La entrada al sitio del proyecto puede ser denegada en base a la información proporcionada durante el examen.

Subcontractor Name: Nombre del subcontratista:			
Project Name: Nombre del proyecto:			
1	Have any of your workers traveled outside of the country within the last 30 days? - ¿Algun trabajador tuyo ha viajado fuera del país en los últimos 30 días?	<input type="checkbox"/> Yes/Si	<input type="checkbox"/> No
1b	If "Yes", where and what date did they return- En caso afirmativo, dónde y en qué fecha regresaron		
2	Have any of your workers had close contact with a person who has been diagnosed with COVID-19 or displayed symptoms of COVID-19 while that person was ill? - ¿Algun trabajador tuyo ha tenido contacto cercano con una persona que ha sido diagnosticada con COVID-19 o ha mostrado síntomas de COVID-19 mientras esa persona estaba enferma?	<input type="checkbox"/> Yes/Si	<input type="checkbox"/> No
2b	If "Yes", when did that occur:- Si "Si", cuando pasó?		
3	Do any of your workers have symptoms of lower respiratory illness? (e.g. acute cough, shortness of breath) - ¿Algun trabajador tuyo ha tenido síntomas de enfermedad respiratoria inferior? (por ejemplo, tos aguda, dificultad para respirar)	<input type="checkbox"/> Yes/Si	<input type="checkbox"/> No
4	Do any of your workers have a fever $\geq$ 99.6° Fahrenheit or symptoms of a fever such as chills, muscle aches and/or weakness? - ¿Algun trabajador tuyo tiene un fiebre $\geq$ 99.6° Fahrenheit o síntomas de fiebre como escalofríos, dolores musculares y/o debilidad?	<input type="checkbox"/> Yes/Si	<input type="checkbox"/> No
5	Did all of your workers take your temperature today before leaving home? - ¿Todos sus trabajadores tomaron su temperatura hoy antes de salir de casa?	<input type="checkbox"/> Yes/Si	<input type="checkbox"/> No

If any worker answers "Yes" to questions 1-4 or "No" to question 5, please do not allow them on the project and immediately



# COVID-19 Construction Guidelines

## What are Home Builders doing?

### If you are Sick, Stay Home!

- COVID-19 Site Check In Electronic Health Screening
  - QR codes placed at many locations throughout community
  - Workers will get email they can show to supervisors to prove they completed the process
  - Can include temperature verification process if desired

### COVID-19 SITE CHECK-IN: Registro de sitio:

**SFI COMPLIANCE**  
**MISCELLANEOUS TRAINING**

Please scan the QR code below and complete the COVID-19 Questionnaire before entering the site.  
Escanee el código QR y complete el cuestionario de antes de ingresar al sitio.

\*Additional temperature check may also be required prior to entry, please check with Site supervision for additional requirements.  
\*Es posible que también se requiera un control de temperatura adicional antes de la entrada, consulte con la supervisión del sitio para conocer los requisitos adicionales.



**THIS SCREENING PROCESS IS REQUIRED FOR ALL PERSONNEL ENTERING THE SITE.**  
**ESTE PROCESO DE EVALUACIÓN SE REQUIERE PARA TODO EL PERSONAL QUE ENTRA AL SITIO.**

Having trouble with QR code? Go to:  
¿Tiene problemas con el código QR? Ir:  
<https://dms.sfi.compliance.com/Covid19/Covid19Checkin/CompanyID=1&SiteID=779>

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**30**  
YEARS  
OF SERVICE

**METRO DENVER**  
**HBA**  
**UNIVERSITY**

# COVID-19 Construction Guidelines

## What are Home Builders doing?



Assembled hand washing station.



Bulb placement under foot pump assembly.

## Examples of Wash Station

# COVID-19 Construction Guidelines

## What are Home Builders doing?



Examples of Wash Station

# COVID-19 Construction Guidelines

## What are Home Builders doing?

### COVID-19 SAFE WORK PROCEDURES

### COVID-19 PROCEDIMIENTOS DE TRABAJO SEGUROS

<p>STAY HOME IF YOU ARE SICK <b>DO NOT WORK</b></p>  <p>QUÉDATE EN CASA SI ESTÁS ENFERMO <b>NO TRABAJES</b></p>	<p>PRACTICE SOCIAL DISTANCING <b>MAINTAIN 6 FEET</b></p>  <p>PRACTIQUE EL DISTANCIAMIENTO SOCIAL <b>MANTENER 6 PIES</b></p>
<p>WASH HANDS FREQUENTLY OR USE ALCOHOL-BASED HAND SANITIZER WITH AT LEAST 60% ALCOHOL.</p>  <p>LÁVESE LAS MANOS CON FRECUENCIA O USE DESINFECTANTES PARA MANOS A BASE DE ALCOHOL CON AL MENOS 60% DE ALCOHOL.</p>	<p>ALWAYS WEAR APPROPRIATE PPE, INCLUDING WHILE CLEANING AND DISINFECTING</p>  <p>SIEMPRE USE EL EPP APROPIADO, INCLUSO MIENTRAS LIMPIA Y DESINFECTA</p>
<p>AVOID TOUCHING EYES, NOSE AND MOUTH</p>  <p>EVITE TOCAR LOS OJOS, LA NARIZ Y BOCA</p>	<p>MINIMIZE RIDE SHARING</p>  <p>MINIMICE EL VIAJE COMPARTIDO</p>
 <p><b>SFI COMPLIANCE</b> Improving Lives &amp; Empowering America's Workforce www.sficompliance.com 800-727-5051</p>	

Signage

**COVID 19** CORONAVIRUS DISEASE **STOP THE SPREAD OF GERMS**

Help prevent the spread of respiratory diseases like COVID-19.

<p>Avoid close contact with people who are sick.</p> 	<p>Cover your cough or sneeze with a tissue, then throw the tissue in the trash.</p> 
<p>Avoid touching your eyes, nose, and mouth.</p> 	<p>Clean and disinfect frequently touched objects and surfaces.</p> 
<p>Stay home when you are sick, except to get medical care.</p> 	<p>Wash your hands often with soap and water for at least 20 seconds.</p> 



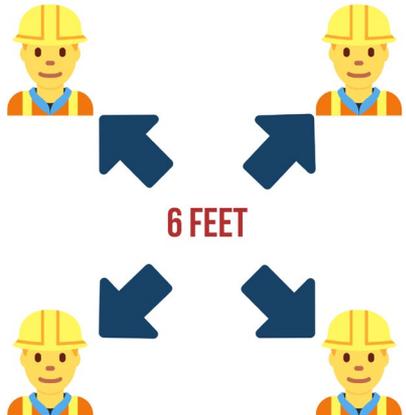
For more information: [www.cdc.gov/COVID19](http://www.cdc.gov/COVID19)



# COVID-19 Construction Guidelines

## What are Home Builders doing?

**STAY SAFE - STAY 6' APART**



6 FEET



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**NOTICE**

TO HELP PREVENT THE SPREAD  
OF CORONAVIRUS (COVID-19)  
WASH YOUR HANDS FREQUENTLY  
AND FOR AT LEAST 20 SECONDS



#SLOWTHESPREAD



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Signage

FACE COVERINGS /  
PROTECTIVE MASKS REQUIRED

SE REQUIERE CUBREBOCAS /  
MÁSCARAS DE PROTECCIÓN



Hard Hats, Eye Protection, Work Boots &  
Safety Vests / High Vis Shirts Required

Casco, Protección para Ojos, Botas de Trabajo y Chalecos  
de Seguridad/ Camisas de Alta Visibilidad Requeridos



Other PPE is Task Specific

Otro EPP para Tareas Especificas

DO YOUR PART TO SLOW THE  
SPREAD OF THE CORONAVIRUS

PONGA DE SU PARTE PARA DESACELERAR LA  
PROPOGACIÓN DEL CORONAVIRUS



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# COVID-19 Construction Guidelines

**National Association of Home Builders:**

**[https://www.nahb.org/Advocacy/Industry-Issues/  
Emergency-Preparedness-and-Response/Coronavirus-  
Preparedness](https://www.nahb.org/Advocacy/Industry-Issues/Emergency-Preparedness-and-Response/Coronavirus-Preparedness)**

# TODD'S TOP FIVE L&E ISSUES FOR CONSTRUCTION

**Presented by:  
Todd Fredrickson**

**Fisher & Phillips LLP**

Atlanta • Baltimore • Bethesda • Boston • Charlotte • Chicago • Cleveland • Columbia • Columbus • Dallas • Denver • Detroit • Fort Lauderdale • Gulfport  
Houston • Irvine • Kansas City • Las Vegas • Los Angeles • Louisville • Memphis • Nashville • New Jersey • New Orleans • New York • Orlando • Philadelphia  
Phoenix • Pittsburgh • Portland • Sacramento • San Diego • San Francisco • Seattle • Tampa • Washington, DC

# 1. Handling Refusals to Work

- Fear of COVID-19 prompting employees to refuse to work.
- How you handle depends upon the situation and array of laws.
  - States (like CO) allow vulnerable individuals the option to stay home without retaliation.
    - Also protect people who live with vulnerable individuals.
  - Other federal L&E laws may protect employees
  - In most other cases a refusal to work is a resignation (general fear, to stay on unemployment comp, etc.).
- Get it in writing.
  - Make job offers and accept refusals in writing.
  - May be required for PPP forgiveness.

## 2. Dealing with the Unemployment Comp Carrot

- Employees using COVID-19 as excuse to apply for U/C
  - With or without legitimate justification
- Carrot: Currently \$600 federal addition to CO unemployment comp
- Notify unemployment if an employee refuses to return to work or when employee returns.
  - Generally, employees not entitled to benefits without legally-supported justification for not returning.
  - Unemployment agencies across the country ignoring or relaxing rules and paying people for now.
- CO requires notification from employee and employer when circumstances change.

### 3. Consider Applicable Laws at Work

- Beware of discrimination/retaliation/public policy claims for treating employees differently when legitimately exercising rights.
  - Employees with COVID-19 or related symptoms may be entitled to certain protections
  - Consider whether employees on leave have job restoration rights, like under FFCRA or EFMLA.
  - CO: Polis' Civil Rights Guidance and new House Bill on whistle-blowing
- NLRA and OSHA protect employees from retaliation if making legitimate safety complaints.
- Potential ADA claims (regarding someone as disabled)
- FMLA: if employee is caring for immediate family (including parents).

## 4. Don't Forget FFCRA & E-FMLA

80 hours of paid sick time “to the extent the employee is unable to work (or telework) due to a need for leave because:

- (1) Employee is subject to a federal, state or local quarantine or isolation order related to COVID-19.
- (2) Employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- (3) Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- (4) Employee is caring for an **individual** subject to an order or self-quarantine as described above.
- (5) Employee is caring for a son or daughter if school or child care is closed/unavailable (also covered by EFMLA, additional 10 weeks of leave, and 2/3 rule).
- (6) Employee is experiencing “any other substantially similar condition” specified by HHS (catch all).

# 5. Handling Furloughs and Layoffs

- Layoffs versus furloughs:
  - What's the difference?
  - What are the impacts of each?
    - Final pay, including vacation and PTO.
    - Health insurance benefits
- WARN Act: 60 days advance notice of a plant closing or mass layoff
- Paying severance and the Older Worker Benefit Protection Act.

# OSHA Aspects of COVID-19 in Construction

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Pat Miller

📞 303.299.8345

✉️ pmiller@shermanhoward.com



# What will OSHA enforcement look like?

- Potential Standards:
  - PPE (1926.28, .95) (note that cloth masks are NOT PPE).
  - Respiratory Protection (1926.103).

# What will OSHA enforcement look like?

- General Duty Clause
  - Each employer “shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.”
  - To what extent will OSHA rely on public health orders?

# OSHA Recordkeeping/Reporting

- When is a COVID-19 exposure recordable?
- OSHA now requires that employers investigate employee exposures to determine work-relatedness.
- Employers must make a reasonable determination; exposures are not automatically recordable.
- When does an employer have to notify OSHA of cases?

# Other Liability Concerns?

- Negligence.
  - Requires proof of duty owed, breach of that duty, and damages.
    - Again, this is where public health orders come in.
  - How does workers' compensation affect this?



# COVID-19 Construction Guidelines

## What You Need To Know

Q & A

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# Contact Today's Speakers



**EJ Olbright**  
CEO  
CFC Construction  
[EJO@cfcc.com](mailto:EJO@cfcc.com)



**Dan Johnson, CSP**  
Managing Partner  
SFI Compliance, Inc.  
[dan@sfi.compliance.com](mailto:dan@sfi.compliance.com)



**Todd Fredrickson**  
Attorney at Law  
Fisher & Phillips, LLP  
[tfredrickson@fisherphillips.com](mailto:tfredrickson@fisherphillips.com)



**Patrick "Pat" Miller**  
Member  
Sherman & Howard  
[pmiller@shermanhoward.com](mailto:pmiller@shermanhoward.com)

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# COVID-19 Construction Guidelines

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