

# COVID-19 CONSTRUCTION PRACTICES

While it is good news for the economy that construction projects are typically considered essential and continue to operate during the COVID-19 pandemic, caution must be taken to minimize COVID exposures arising from continued operations.

New York Labor Law §200 requires that Owners and Contractors provide construction workers with a safe place to work. Claims under Labor Law §200 are subject to the negligence standard of care. While California and New Jersey do not have a similar statutes, both states do enforce a negligence standard regarding a safe workplace. Given the prevalence of the coronavirus throughout New York City, Owners and Contractors may have a legal duty to make sure that workers are adequately protected against exposure. Appropriate Personal protective equipment (“PPE”) should be available to all workers. The availability of this PPE should be reinforced on a regular basis and memorialized in a writing.

When feasible attempt to stagger contractor trades or crews to limit crowding or unnecessary interaction between unrelated companies and/or workers.

OSHA has issued Guidance for preparing workplaces for Covid-19. <https://www.osha.gov/Publications/OSHA3990.pdf> OSHA would likely categorize construction work as a medium exposure risk, which is defined as “frequent and/or close contact with (i.e., within 6 feet of) people who may be infected, but who are not known or suspected COVID-19 patients.” OSHA recommends the following for medium exposure risk employees:

- Each employer should select the combination of PPE that protects workers specific to their workplace. When selecting PPE, consider factors such as function, fit, decontamination ability, disposal, and cost. Sometimes, when PPE will have to be used repeatedly for a long period of time, a more expensive and durable type of PPE may be less expensive overall than disposable PPE
- Workers with medium exposure risk may need to wear some combination of gloves, a gown, a face mask, and/or a face shield or goggles.
- PPE ensembles for workers in the medium exposure risk category will vary by work task, the results of the employer’s hazard assessment, and the types of exposures workers have on the job.