



June 2020

NYC Jobsite Staging Permitted to Begin June 1

FOR IMMEDIATE RELEASE: *Empire State Development (ESD)*, as part of Phase 1 “New York Forward”, has authorized NYC builders and contractors, beginning June 1st, to commence job staging in preparation for construction activity to resume on Monday, June 8th. Permitted staging activities include the following:

- Site preparation (cleaning and sanitizing)
- Testing (elevators, cranes, hoists)
- Workflow (designate entrance and exit pathways to maximize hygiene and minimize exposures)
- Installation (health screening (including temperature taking) and wash stations at each entrance)
- COVID-19 Signage (install posters, markers, directional arrows)
- PPE (stockpile face shields, face masks, gloves)
- Materials (order, receive, and rough set materials needed by sub or specialty contractor (e.g. drywall, piping, fixtures, structural supports, conduits...etc.)

For more guidance from the ESD regarding this development, please click on the following link:

<https://esd.ny.gov/guidance-executive-order-2026>

Keep Your Distance for Health and Safety

The COVID-19 pandemic's effects on the American workplace are yet to be fully understood but suffice to say that changes will be made, out of necessity, which will forever transform the way companies do business. Whether these changes will be implemented to help suppress the current pandemic or to help control a future one, most likely many of them will be permanent.

History will remember 2020 as the year the term *social distancing* was coined. The medical professionals from the very beginning of the outbreak urged the public to maintain a minimum of six (6) feet from others whenever possible. This may be easy to do when walking in a park or down a city street but what about an office environment where people may have worked quite close to each other before the onset of the pandemic.

Social distancing conventions need not (and must not) be abandoned once people enter an enclosed space like a building. Business owners now must look at their offices from a new perspective and make necessary modifications to ensure the health and safety of their employees and visitors alike. Some guidelines to consider before undertaking this task are listed below:

- Reception area seating (if any) must be arranged so chairs are at least six (6) feet apart
- Corridors and hallways should be limited to one-way traffic
- Re-position workstations or desks as needed to maintain social distancing
- Relocate employees to any unused or underused space if available to reduce density
- Increase distances between persons to six (6) feet wherever waiting lines may form
- Install physical barriers such as plexiglass between desks that are not located in cubicles
- Where there are no barriers, but the six (6) separation exists, consider placing a warning sign to remind occupants to maintain social distance.
- Use video or telephone communications in lieu of face to face meetings whenever possible
- Reduce the occupant load in common spaces such as lunch or breakrooms by staggering lunch and break times.
- Typical elevator cars are only 6.5 to 7 feet wide and 6 feet deep so employers should mark designated standing spaces that are approximately four (4) square feet in area to maximize separation.

Social distancing restrictions and protocols have been developed only recently and therefore require constant emphasis. For it to be successful, liberal use of floor and wall signage directing occupants where to stand, where not to stand, where to walk, etc. is critical. Consequently, obtaining appropriate signage from a reputable vendor must be a priority. For more complex or involved reorganizations, consider contracting with a company that specializes in the emerging field of social distancing technology.

Another important factor to ponder before making wholesale changes within an office is fire safety. Creating dead-end corridors, lengthening the path of travel, and blocking exits or reducing their numbers below the legal minimum may not be permissible under existing fire codes. Before undertaking a social distancing project, ask a local code enforcement officer or fire marshal to evaluate the planned modifications to ensure that they do not violate emergency egress requirements or any other fire code regulation.

Reimagining and restructuring work environments will be necessary across the entire spectrum of American business. Developing and implementing a viable plan requires understanding social distancing protocols then taking steps to protect workers from the current virus outbreak and any subsequent outbreaks that may occur in the future.

Back in Business May Mean Testing Employees for COVID-19

OSHA constantly emphasizes that employers are responsible for maintaining a “safe and healthful workplace” As part of that responsibility, many employers instituted general drug testing to identify employees under the influence of drugs that may impair their decision-making ability and reaction time. This practice has become a relatively commonplace and accepted component of many safety programs.

With the onset of the COVID-19 pandemic, however, testing of another kind may be necessary or even made mandatory by future legislative or regulatory actions. Employers seeking to continue providing a healthy work environment may choose to test employees for signs of a virus infection. While OSHA has not yet declared that this testing is mandatory, preventing an outbreak in the workplace certainly will help employers maintain the required “safe and healthful workplace”. The question is, is this practice legal and, if so, what guidelines must be followed?

On April 23, to address employer inquiries and concerns about the matter, the *Equal Employment Opportunity Commission (EEOC)* released **What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws**. Some requirements found in the publication are as follows:

- Any compulsory medical tests of employees must be “job related and consistent with business necessity” to determine if a COVID-19 infected employee “will pose a direct threat to the health of others.”
- All testing protocols also must be systematic, uniform, and predictable. Establish procedures so that all employees are tested using identical methods and times such as before each workday begins or just before a shift change.
- Accuracy is critical. Only tests that conform to the most current standards promulgated by public health entities such as the *U.S. Food and Drug Administration’s (FDA)* or the *Centers for Disease Control and Prevention (CDC)* are acceptable. Monitoring of these standards is required to ensure that company-testing methodology stays consistent with the latest available information.
- Incorporate COVID-19 testing instruction into existing safety training programs. Employees must be made aware of why and how it will be implemented.

For a complete analysis and discussion of COVID-19 testing, visit the EEOC’s website at the following link: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

Gathering the information, however, is one task but another is complying with any federal and state confidentiality laws that may apply to the care and handling of test results. Check with legal counsel or human resource professionals for more information.

The dynamic, ever changing COVID-19 landscape has employers rightfully concerned about how to safely restarting business activities without compromising the health and safety of their employees. Staying abreast of the latest testing related information and procedures is vital to ensuring a successful transition from shutdown to “business as usual”.

Experts Clear the Air on Possible COVID-19 Exposures

COVID-19 exposure is the cause of much fear and anxiety among the public and rightly so. Unseen and potentially deadly, the virus lurks, waiting to contaminate unsuspecting humans. Preventing exposure, needless to say, is the number one objective of everyone on the planet. A flood of information has been released from thousands of medical authorities, public health agencies, and governments and it may be difficult at times for employers to separate fact from fiction.

Employers should understand by now that covering the nose and mouth are critical as are frequent hand washings. The virus reportedly can enter the body through the eyes as well, but can it lodge itself on clothing, hair, or beards? A recent *New York Times* article, done in response to numerous questions raised by its readers, attempted to answer this question.

After consulting with aerosol scientists, microbiologists, and infectious disease experts, the newspaper reported that the virus does in fact have some limitations with respect to its ability to spread. These conclusions should help employers better understand how to minimize the risk for contaminating the work environment.

Can the virus land on clothing?

Virus droplets launched into the air by a sneeze or cough beyond the six-foot social distancing circle are unlikely to land on clothing, according to aerosol scientists because a body in motion creates airflow or “streamlines”. As a person moves, the surrounding pocket of air becomes displaced, causing any nearby airborne virus droplets to be deflected before finally dropping to the ground.

Only very large droplets, such as those propelled forcefully by a nearby sneeze, cough, or “spit talking” theoretically could penetrate an air pocket. Wearing a mask, of course, is recommended to prevent this type of situation from developing but if an employee has this experience, he or she should change their clothes before continuing work.

What about hair or beards?

The same rationale applies to hair and beards. According to medical experts, in the case where a person sneezes or coughs directly on another’s hair or beard, assuming social distancing is being practiced, it is unlikely that he or she would become infected. For the virus to spread, the person would then have to touch their hair or beard then immediately touch their face or eyes. Considering that the series of events would have to occur in precise order for contamination to occur, the risk is very low.

When should clothes be laundered?

Under normal circumstances, doing laundry may be done as usual. Although it is possible that active virus droplets could be re-released into the air while the clothing is being prepared for washing, again the risk is very low. Health experts believe that for a significant contamination hazard to be created, a large quantity of active viruses would have to be present. Soap used in a washing machine (or any soap for that matter) destroys the virus’s outer protective membrane and renders it harmless. Machine drying clothing also is said to kill the virus.

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Separating scientific fact from fiction regarding COVID-19 is not always easy considering the incredible number of opinions being offered by medical professionals using all manner of electronic media who may disagree or offer conflicting information. Employers should stay as educated as possible by monitoring prominent health organizations such as the *Centers for Disease Control and Prevention* (CDC) and the *World Health Organization* (WHO). The city, county, or state health department are also good sources for obtaining reliable virus-related updates.

Please direct any questions or concerns to:

The Safety Division at Hamond Safety Management

Anthony Vacchio, avacchio@hamondgroup.com 516-762-4224