

COVID-19: Michigan Governor Gretchen Whitmer Lifts Restrictions on Construction Work

May 2, 2020

Michigan Gov. Gretchen Whitmer signed an executive order on May 1, 2020, making residential and commercial construction among the first sectors of the economy to reopen as the state gradually lifts its stay-at-home orders. The order allows workers in the construction industry, including workers in the building trades (plumbers, electricians, HVAC technicians, and similar workers) to resume activities effective at 12:01 a.m. on May 7, 2020, provided the resumed activities comply with enhanced social-distancing rules and other mitigation measures required by the Occupational Health and Safety Administration (OSHA), the Centers for Disease Control (CDC) and other applicable state and federal laws. The executive order requires businesses or operations in the construction industry to:

1. Develop a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by OSHA (available at <https://www.osha.gov/Publications/OSHA3990.pdf>). Such a plan must be available at company headquarters or the worksite.
2. Prohibit gatherings of any size in which people cannot maintain six feet of distance from one another.
3. Limit in-person interaction to the maximum extent possible, and barring any such interaction in which people cannot maintain six feet of distance from one another.
4. Provide personal protective equipment such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed.
5. Adopt protocols to limit the sharing of tools and equipment to the maximum extent possible and to ensure frequent and thorough cleaning of tools, equipment, and frequently touched surfaces.
6. Designate a site-specific supervisor to monitor and oversee the implementation of COVID-19 control strategies developed. The supervisor must remain on-site at all times during activities. An on-site worker may be designated to perform the supervisory role.
7. Conduct a daily entry screening protocol for workers and visitors entering the worksite, including a questionnaire covering symptoms and exposure to people with possible COVID-19, together with, if possible, a temperature screening.
8. Create dedicated entry point(s) at every worksite, if possible, for daily screening as provided in item 7 above, or in the alternative issue stickers or other indicators to workers to show that they received a screening before entering the worksite that day.
9. Require face shields or masks to be worn when workers cannot consistently maintain six feet of separation from other workers.
10. Provide instructions for the distribution of personal protective equipment and designate on-site locations for soiled masks.
11. Encourage or require the use of work gloves, as appropriate, to prevent skin contact with contaminated surfaces.

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12. Identify choke points and high-risk areas where workers must stand near one another (such as hallways, hoists and elevators, break areas, water stations, and buses) and control their access and use (including through physical barriers) so that social distancing is maintained.
13. Ensure there are sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by workers.
14. Notify contractors (if a subcontractor) or owners (if a contractor) of any confirmed COVID-19 cases among workers at the worksite.
15. Restrict unnecessary movement between project sites.
16. Create protocols for minimizing personal contact upon delivery of materials to the worksite.

As residential and commercial construction work resumes, it is important for contractors and owners to strictly comply with the executive order, OSHA, CDC, and other applicable state and federal laws. Please contact the authors of this alert or your Miller Canfield attorney with further questions.

This information is based on the facts and guidance available at the time of publication, and may be subject to change.