



COVID-19

UPDATE:
May 27, 2020

**Coronavirus / COVID-19
Response Team**

MILLER 
JOHNSON
Attorneys

1

MILLER 
JOHNSON
Attorneys


ABC Michigan
Associated Builders
and Contractors, Inc.

**Impact of New Executive
Orders on Construction
in Michigan**

» Jeff Wiggins
Keith Eastland

MILLER 
JOHNSON
Attorneys

The materials and information have been prepared for informational purposes only. This is not legal advice, nor intended to create or constitute a lawyer-client relationship. Before acting on the basis of any information or material, readers who have specific questions or problems should consult their lawyer.

Agenda

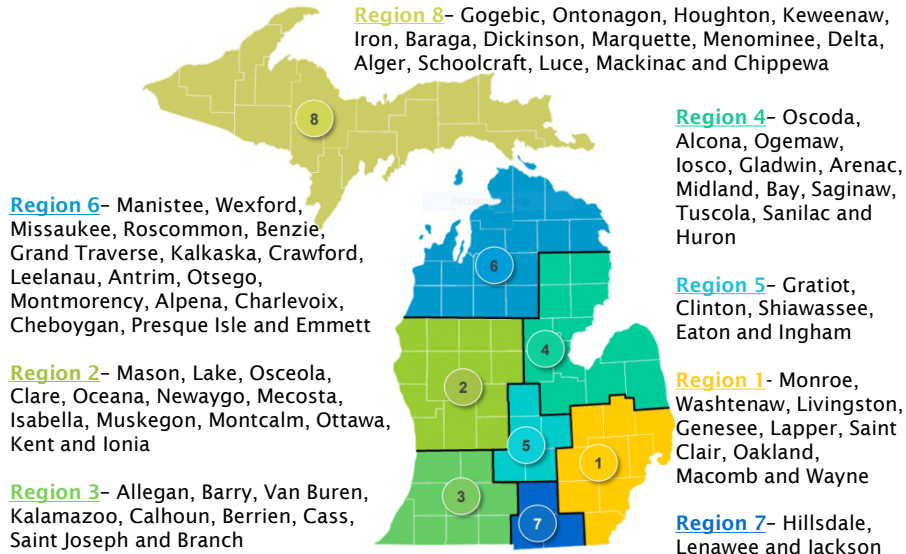
1. Executive Orders Update: making sense of the confusion and a new structure
2. Current construction requirements
3. What's new or different
4. Enforcement issues

1. Executive Orders Update

Executive Orders Update

- Over 100 executive orders
- Seemingly ever-changing
- Emergency extended through June 19
- Shutdown order extended through June 12
- Eight region plan incorporated
- Latest orders (for now)
 - EO - 96: Who can and can't operate
 - EO - 97: Workplace standards - what you must do

Eight Regions



7

Shutdown Order – New Structure

- Two parts
 1. Shutdown Order
 - Critical infrastructure
 - Resumed activities
 2. Workplace Standards
 - General requirements
 - Industry specific requirements:
 - outdoor businesses; construction; manufacturing; research laboratories; retail; offices; restaurants and bars

Must examine both the general requirements and industry/area specific requirements

8

2. Current Construction Requirements

General Requirements (For All)

- Develop COVID-19 preparedness and response plan
 - By June 1 (or 2 weeks after resuming ops) make the plan available “to employees, labor unions, and customers, whether via website, internal network, or by hard copy”
- Designate one or more worksite supervisors to implement and monitor your COVID-19 plan
- Provide COVID-19 training that covers at least:
 - a. workplace infection control practices;
 - b. proper use of PPE;
 - c. steps employee must take to notify the business of symptoms or suspected or confirmed case;
 - d. how to report unsafe working conditions.

General Requirements (Cont.)

- Daily entry screen for employees and visitors
 - include a questionnaire covering symptoms/suspected or confirmed exposure
- Keep everyone six feet away from each other to maximum extent possible
 - use ground markings, signs and physical barriers
- Provide non-medical grade face coverings to EEs
- Require face coverings to be worn if employees cannot consistently keep 6 feet apart; consider face shields when they cannot keep 3 feet apart
- Increase facility cleaning and disinfection (high-touch surfaces/shared tools, etc.)

General Requirements (Cont.)

- Adopt protocols to clean and disinfect worksite in the event of a positive case
- Make cleaning supplies available upon entry and provide time to wash/sanitize hands frequently
- When an employee is identified with a confirmed case, within 24 hours notify:
 - the local public health department; and (
 - any co-workers, contractors or suppliers who may have come into contact with that person
- Allow employee to return following a confirmed or suspected case of COVID-19 when they are no longer infectious per the latest CDC guidance

General Requirements (Cont.)

- Follow EO 2020-36 - directing when employees should stay home and providing protection against retaliation
- Establish a response plan for addressing confirmed infection in the workplace
 - adopt protocols for sending employees home and temporary closures
- Restrict business-related travel to essential travel
- Encourage employees to use PPE and hand sanitizer on public transportation
- Promote remote work to fullest extent possible
- Adopt additional infection-control measures based on type of work and infection rate that are reasonable

Industry Specific Requirements

- Conduct daily entry screening for all individuals on the job site
 - including a questionnaire covering symptoms and suspected/confirmed cases of COVID-19
 - “if possible” conduct temperature screening
 - must document
 - wage and hour issue
- Create dedicated entry points for daily screenings, alternatively use stickers or other indicators to show who has been screened
- Provide instructions for distribution of PPE and designate locations for soiled face coverings

Industry Specific Requirements (Cont.)

- Require use of work gloves where appropriate to prevent skin contact with contaminated surfaces
- Identify “choke points” and high-risk areas (such as hallways, hoists, elevators, water stations, etc.) and control access/ensure social distancing is maintained
- Provide sufficient hand-washing or hand-sanitizing stations
- Notify contractors/owners of confirmed COVID-19 cases
- Restrict unnecessary movement between projects/sites
- Create protocols for minimizing contact with deliveries

3. What's New or Different?

3. What's New or Different

- Availability of COVID-19 Preparedness/Response Plan
- Training for employees (workplace infection control practices; proper use of PPE; reporting) – must document
- Must document daily entry screenings
- New, broader notice requirement for public health official and anyone “who may have come into contact with” a confirmed case (within 24 hours, and document)
- Follow CDC guidance on returning employees to work (now at least 10 days from symptom onset)
- Update positive test protocols
- Make cleaning supplies available upon entry
- Business related travel restrictions

Additional Thoughts

- Communicate with owners, GCs and CMs – meet their expectations and coordinate efforts
- Develop plan/requirements for subcontractors
- Develop communication strategy for your own employees and others on the site
- Develop protocols for employee travel
- Review potential application of FFCRA and related issues such as refusals to work
- Ensure all contractors understand return to work parameters for positive test or exposure/close contact – EO 36 & CDC requirements for potentially exposed workers

Office Workplaces

- Assign dedicate entry points to reduce congestion
- Use visual indicators for appropriate spacing for those waiting
- Reduce congestion to ensure effective screening (e.g. staggering start times, rotating schedules)
- Require face coverings in shared spaced, including during in-person meetings and in restrooms and hallways
- Increase distancing between EEs by spreading out workspaces, staggering usage, restricting non-essential common spaces, providing visual cues (e.g. restricting elevator capacity)
- Turn off water fountains
- Prohibit gatherings/meetings where you can't social distance
- Provided cleaning supplies and require EEs to wipe down work stations at least 2x per day
- Post signs about the importance of person hygiene

Office Workplaces (Cont.)

- Disinfect high-touch surfaces in offices (whiteboards, restrooms, handles) and minimize shared items (pens, remotes, etc.)
- Institute cleaning and communications protocols when employees are sent home with symptoms of COVID-19
- Notify all employees if the employer learns that an individual with a confirmed case of COVID-19 has visited the office
- Suspend all non-essential visitors

Enforcement Issues

- Safety continues to be critical
- Laws granting Governor authority to issue EOs have limited enforcement/penalty protections – violations must be willful
- New EOs state that requirements = formal agency rules and can be enforced punished through agency procedures, e.g. MIOHSA’s investigation and penalty framework

Miller Johnson Back to Work Resource Center

<https://resources.millerjohnson.com/>

Welcome!

Our online **Back to Work Resource Center** provides a cost-effective one-stop shop for employers who are returning employees to work during this COVID-19 pandemic.

The **Back to Work Resource Center** regularly updates information to:

- ensure compliance with the ever-changing legal requirements
- include practical tools to effectively, safely and confidently return employees to work
- incorporate resources of best practices from outside organizations, including community partners such as Spectrum Health

Updates will be provided to all participants as the law and best practices evolve, including a weekly email of significant postings.

Miller Johnson Back to Work Resource Center

<https://resources.millerjohnson.com/>

MILLER JOHNSON
Resource Center

[Guidance](#)

[Contact](#)

[Account](#)

[Log out](#)

Industry Specific Resources

As various industries are opening, Miller Johnson has gathered specific resources and tools to help you get Back to Work.



Other Resources

- [Forms, Templates & Communications](#)
- [Policies, Checklists & FAQs](#)
- [Training Videos](#)
- [Additional Information](#)

23



Keith Eastland

616.831.1749

eastlandk@millerjohnson.com

millerjohnson.com

45 Ottawa Ave SW
Suite 1100
Grand Rapids, MI 49503

100 W Michigan Ave
Suite 200
Kalamazoo, MI 49007

24