

How Coronavirus Is Affecting the Construction Industry: An Evolving Tracker of Construction Shutdowns Across the United States

The US construction market has been upended by the COVID-19 pandemic. Rapidly evolving state and local orders governing business closures, limitations on social gatherings, and restrictions on commerce are being issued and clarified daily. Foley's nationally ranked Construction Practice has been continually tracking those states in which construction has been impacted by such orders. Our construction tracker serves as a critical resource for owners, contractors, laborers and suppliers trying to make sense of the current landscape. Please note, even in states where construction is permitted to continue, the health and safety of all who access and work on construction sites and adherence to social distancing requirements must be the utmost priority. Updates should be made to health and safety plans and project parties should work together to determine best practices for maintaining the health, welfare, and safety of all.

With the proliferation of multiple conflicting state and local orders, including the limited federal guidance on construction as an essential service, parties seeking to understand how governing law may impact their construction project must seek advice of counsel. The following guidance is not legal advice. This information is a summary of orders impacting construction in a rapidly changing and uncertain environment. We cannot guarantee that governmental authorities will concur with our summary nor can we guarantee how your particular project will be treated under the law. If you have questions on any matters related to applicability of the law, safety, project suspension, force majeure provisions, or contractual rights to suspend or terminate, please contact any of the lawyers in [Foley's Construction Practice](#).

State	Construction Impact	Express Restrictions and Guidance	Local Variances and Additional Considerations
Alabama	Construction allowed to Continue	Pursuant to an order of the State Health Officer, as revised April 10, 2020 and continuing through April 30, 2020, all persons are ordered to stay in their residence except as necessary to perform "essential activities" or work in "essential businesses and operations". Construction and construction-related services are included as essential businesses and operations.	The statewide order permits the Jefferson and Mobile County Health Officers, with approval of the State Health Officer, to implement more stringent measures as local circumstances require.
Alaska	Construction Suspended Except	Effective March 28, 2020 at 8:00 a.m. and in effect until April 21, 2020, all	Certain quarantine requirements in effect for travel into and within Alaska do not apply if persons support

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	for "Critical Infrastructure"	<p>businesses were ordered to cease operations under Alaska Health Mandate No. 12 (updated April 9, 2020) except for minimum basic operations necessary to maintain safety and security. Certain critical businesses may remain open while implementing social distancing to the greatest extent possible. "Critical Infrastructure" is considered a critical business and includes work necessary to the operation and maintenance of:</p> <ul style="list-style-type: none"> ▪ The Port of Alaska; ▪ Public works construction; ▪ Construction of housing; ▪ Airport operations; ▪ Water, sewer, gas and electrical services; ▪ Oil production, mining and logging; ▪ Internet and telecommunications systems; ▪ Mining and logging; ▪ Roads and highways; ▪ Trucking and shipping companies; ▪ Public transportation; and ▪ Solid waste collection and removal. 	<p>critical infrastructure. Such businesses falling within this exception must submit a travel plan or protocol for avoiding the spread of COVID-19 in the communities within which they operate.</p> <p>Alaska Health Mandate 12, detailed at left, supersedes any local government or tribal mandate, directive, or order restricting intrastate travel.</p>
Arizona	Construction Allowed to Continue	<p>Effective March 31, 2020 at 5pm and in effect until April 30, 2020, Governor Ducey implemented a "Stay Home, Stay Healthy, Stay Connected" Order limiting travel, activities and certain business. Businesses performing "essential functions" as detailed in Executive Order 2020-12 may continue to function, including construction.</p>	
Arkansas	Construction Allowed to Continue	<p>Governor Hutchinson has not yet issued a statewide shutdown order. However, the Arkansas Department of Public</p>	

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		<p>Health has mandated that businesses, including construction companies, implement certain social distancing protocols.</p>	
<p>California</p>	<p>Construction Allowed to Continue; Restrictions in San Francisco Bay Area, Los Angeles and Surrounding Counties</p>	<p>All individuals living in the State of California must stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors identified by the Department of Homeland Security and other sectors identified by the Director of the California Department of Public Health, which includes construction and, particularly, housing construction.</p> <p>Further guidance issued by the California State Public Health Officer has designated the following as “essential”: construction workers who support construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction), and workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of construction sites and construction projects. Construction material suppliers have also been added to the list of essential services.</p>	<p>City of Los Angeles: Revised April 10, 2020 and continuing until May 15, 2020, all persons are ordered to remain in their home and all businesses within the City are ordered to cease operations. Exceptions related to construction fall under "Essential Infrastructure" and includes:</p> <ul style="list-style-type: none"> ▪ Construction of commercial, office and institutional buildings, residential buildings and housing; ▪ Airport operations, food supply, concessions, and construction; and ▪ Port operations and construction. <p>On April 15, 2020, the LA Department of Building & Safety updated its guidelines with respect to construction.</p> <p>County of Los Angeles: On April 10, 2020, the County of Los Angeles updated its Safer at Home Order, which is in effect until May 15, 2020. Construction is broadly allowed to continue under this order. Further, on April 10, 2020, the LA County Department of Public Health announced new site safety guidelines for construction sites.</p> <p>San Francisco Bay Area Counties: San Francisco, Alameda, Contra Costa, San Mateo, Santa Clara and Marin Counties (and the City of Berkeley) issued coordinated orders effective March 31 at midnight that require all persons to shelter in place through May 3 at midnight, unless expressly excepted from the Orders. While the Orders vary slightly, they severely restrict construction.</p>

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			<p>The Orders are now mandatory and failure to comply with any of the provisions of the Orders “constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.”</p> <p>The only construction activities allowed to continue are:</p> <ul style="list-style-type: none"> ▪ Projects immediately necessary to the maintenance, operation, or repair of Essential Infrastructure; ▪ Projects associated with Healthcare Operations, including creating or expanding Healthcare Operations, provided that such construction is directly related to the COVID-19 response; ▪ Affordable housing that is or will be income-restricted, including multi-unit or mixed-use developments containing at least 10% income-restricted units; ▪ Public works projects if specifically designated as an Essential Governmental Function by the lead governmental agency; ▪ Shelters and temporary housing, but not including hotels or motels; ▪ Projects immediately necessary to provide critical non-commercial services to individuals experiencing homelessness, elderly persons, persons who are economically disadvantaged, and persons with special needs; ▪ Construction necessary to ensure that existing construction sites that must be shut down under this Order are left in a safe and secure manner, but only to the extent necessary to do so; and ▪ Construction or repair necessary to ensure that residences and buildings containing Essential Businesses are safe, sanitary, or habitable to the extent such construction or repair cannot reasonably be delayed.

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			<p>Construction guidelines have also been issued for San Francisco County and San Mateo County.</p> <p>For more in depth understanding of California state and local orders and the impact of such orders on the lives of California residents and businesses, please see Foley’s alert Managing the Commercial Impact of the Coronavirus: Sixteen Counties and Three Cities in California Under Shelter In Place Order or Directive.</p>
Colorado	Construction Allowed to Continue; Municipal Restrictions in San Miguel County	Effective March 26, 2020 at 6:00 a.m. and as extended until April 26, 2020 , all persons are ordered to stay at home and all businesses must close. Exceptions related to construction fall under the “Critical Business” sectors identified by the Colorado Department of Public Health and Environment (updated April 9, 2020), and includes construction.	<p>San Miguel County, including Telluride: Effective March 21, 2020 (and updated April 4, 2020) all businesses are ordered to close, except for Essential Businesses. Residential and commercial construction is expressly shut down except for Minimum Basic Operations (site security). Exceptions to the shutdown include any construction activities that support Essential Businesses, Essential Infrastructure or Essential Government Functions. These exceptions include construction related to, among other things:</p> <ul style="list-style-type: none"> ▪ Public Works; ▪ Utilities; ▪ Roads and Highways; ▪ Health Care Operations; ▪ Airports; and ▪ Oil Refining. <p>Failure to comply with this order is subject to criminal and civil penalties, including a fine up to \$5,000 and imprisonment in county jail for up to 18 months.</p>
Connecticut	Construction Allowed to Continue	Effective March 23, 2020 and as extended on April 10, 2020 to be in effect through May 20, 2020, all non-essential businesses or not-for-profit entities are ordered to reduce their in-person workforces by 100%. The	

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		<p>Department of Economic and Community Development issued lawfully binding guidance that includes construction as an “essential business” and posted Safe Workplace Rules for Essential Employers specifically applicable to the operation of construction sites.</p>	
<p>Delaware</p>	<p>Construction Allowed to Continue</p>	<p>Effective March 24, 2020 at 8:00 a.m. and continuing indefinitely, all Non-Essential Businesses are ordered to close. Essential Businesses include businesses that employ workers in residential, nonresidential and infrastructure construction and workers who provide critical maintenance to residential or non-residential structures.</p>	<p>Delaware first issued a State of Emergency Order on March 13, 2020 and has, to date, issued eleven modifications to that SOE Order. Although each order has increased in strictness, as of this update construction is still broadly permitted.</p>
<p>District of Columbia</p>	<p>Construction Allowed to Continue; Safety Guidelines Issued</p>	<p>Pursuant to Mayor's Order 2020-053 effective March 25, 2020, and as updated on March 30, 2020 and on April 15, 2020, all businesses are ordered to close except as necessary to continue Minimum Basic Operations. Construction and building trades are exempt from the closure order subject to safety guidelines for construction sites.</p>	
<p>Florida</p>	<p>Open Construction Allowed to Continue</p>	<p>Governor DeSantis issued a statewide order effective April 3, 2020 at 12:01 a.m. and continuing until April 30, 2020. It prevents travel except for essential services or activities and closes all non-essential businesses. It defines “essential businesses” by referring to (1) the guidance of the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency ("CISA"), and (2) the Miami-Dade County Emergency Order, which defines</p>	

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		<p>“essential retail and commercial businesses” to include:</p> <ul style="list-style-type: none"> ▪ Open construction sites, irrespective of the type of building; and ▪ Contractors and other tradesmen, appliance repair personnel, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences and other structures. <p>For more in depth understanding of Florida’s Executive Order 20-91 Essential Services and Activities During Coronavirus Emergency, please see Foley’s CRC alert.</p>	
Georgia	Construction Suspended Except for CISA Exempted Work	Pursuant to Executive Order 04.02.20.01 , effective at 6:00 p.m. on Friday, April 3, 2020 and extended until at 11:59 p.m. on April 30, 2020, all residents and visitors to the state are ordered to shelter in place within their homes unless exempted by CISA . CISA guidance allows construction related to housing, continuity of building functions and safety, public works, communications, essential services and products, energy sector (including renewable energy) projects, and COVID-19 relief efforts.	Governor Kemp's order supersedes any county, municipal, or local ordinances.
Hawaii	Construction Suspended Except for CISA Exempted Work and Identified “Critical Trades”	Effective at 12:01 a.m. on March 25, 2020, and until 11:59 p.m. on April 30, 2020 all persons within the state are ordered to stay home, except to travel to	

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		<p>and from Essential Business and Operations.</p> <p>Exceptions related to construction fall under (i) sectors identified by CISA, which guidance construction related to housing, continuity of building functions and safety, public works, communications, construction related to essential services and products, energy sector (including renewable energy) projects, and COVID-19 relief efforts, and (ii) "Critical Trades" including building and construction tradesmen and tradeswomen, and other trades including but not limited to plumbers, electricians, operating engineers, and HVAC workers.</p>	
Idaho	Construction Allowed to Continue	<p>Effective March 25, 2020 and as updated on April 15, 2020, all businesses, except for Essential Businesses, are ordered to close until April 30, 2020. Exceptions related to construction fall under (i) sectors identified by CISA, which guidance construction related to housing, continuity of building functions and safety, public works, communications, construction related to essential services and products, energy sector (including renewable energy) projects, and COVID-19 relief efforts, and (ii) "Essential Infrastructure", which broadly includes:</p> <ul style="list-style-type: none"> ▪ Public works construction; ▪ Commercial construction; and ▪ Construction of housing (in particular affordable housing and housing for those individuals experiencing homelessness). 	

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Illinois	Construction Allowed to Continue	<p>Pursuant to Executive Order 2020-10, effective March 21, 2020 and extended until April 30, 2020 by Executive Order 2020-18, all individuals living within the State of Illinois are ordered to stay at home or at their place of residence except to perform Essential Activities or Essential Government Functions, or to operate Essential Businesses and Operations. The order identifies construction (including but not limited to construction required in response to the order, hospital construction, construction of long-term care facilities, public works construction, and housing construction) as an Essential Business and Operation. Further guidance updated on April 9, 2020 reaffirms the essential nature of construction services.</p> <p>See Foley's CRC website for more information regarding the Illinois order.</p>	
Indiana	Construction Allowed to Continue	<p>As updated on April 6, 2020 and continuing in effect until April 20, 2020, all residents are ordered to stay home and all non-essential businesses are ordered to cease. Exceptions related to construction fall under (i) sectors identified by CISA on March 28, 2020 as essential and (ii) those specifically defined as "Essential Infrastructure" and "Critical Trades" including construction.</p>	
Iowa	Construction Allowed to Continue	<p>The Order issued by Governor Kim Reynolds on April 16, 2020 regarding social distancing does not affect the construction industry.</p>	
Kansas	Construction Suspended Except	<p>Effective 12:01 a.m. on March 30, 2020, all persons shall stay in their homes or</p>	

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	for "Essential Functions"	<p>residences unless performing an essential activity, which includes performing or going to work at an "essential function." The order has been extended through May 3, 2020 and defines "essential functions" to include</p> <ul style="list-style-type: none"> ▪ Constructing or repairing roads; ▪ Constructing, maintaining, or cleaning buildings; ▪ Constructing, supplying, cleaning, or maintaining single family homes or other housing; and ▪ Producing or distributing construction materials. 	
Kentucky	Construction Suspended Except for CISA Exempted Work and Construction or Maintenance of Residential, Commercial or Government Structures	Effective March 26, 2020, Governor Beshear ordered that only "life-sustaining businesses" may remain open. Life-sustaining businesses related to construction fall under (i) sectors identified by CISA and (ii) businesses providing construction or maintenance of residential, commercial or government structures.	
Louisiana	Construction Suspended Except for CISA Exempted Work	Effective March 23, 2020 and extended until April 30, 2020, all individuals are ordered to stay at home unless performing an essential activity or an essential worker function. Guidance of what constitutes an essential worker function is provided by CISA, which guidance includes construction related to housing, continuity of building functions and safety, public works, communications, construction related to essential services and products, energy sector (including renewable energy)	

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		<p>projects, and COVID-19 relief efforts. An essential infrastructure fact sheet outlining Louisiana's order can be found here.</p>	
Maine	Construction Allowed to Continue	<p>Effective 12:01 am March 25, 2020 and extended until April 30, 2020, all Non-Essential Businesses are ordered to cease operations. Exceptions related to construction fall under sectors identified by CISA as essential on March 19, 2020 and construction and maintenance of essential infrastructure. Further guidance issued on April 3, 2020 lists "construction, maintenance and property management" as essential business operations permitted to continue.</p>	<p>On April 14, 2020, Governor Janet Mills issued a Proclamation to Renew the State of Civil Emergency until May 15, 2020.</p>
Maryland	Construction Allowed to Continue	<p>Under Maryland's stay-at-home order, updated effective March 30, 2020, all businesses are ordered closed other than those businesses that are part of the critical infrastructure sectors identified by guidance issued by CISA. Interpretative guidance issued on March 23 by the Maryland Office of Legal Counsel clarifies that commercial and residential construction companies are exempt from the order to close.</p>	<p>The order mandates that "[a] person who knowingly and willfully violates this Order is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both."</p>
Massachusetts	Construction Suspended Except for Essential Services; Subject to More Restrictive Local Orders	<p>Effective Tuesday, March 24, 2020 Governor Charlie Baker ordered a statewide stay-at-home directive for Massachusetts residents. This order was updated on March 31, 2020 and extended until May 4, 2020. The Governor also updated the guidelines for COVID-19 Essential Services – which are effective as of Noon on April 1, 2020. These updated guidelines severely limit the operation of</p>	<p>On March 25, 2020, the Governor's Legal Office issued a letter to all municipalities clarifying the March 24 order specifically with respect to construction. Governor Baker ordered all municipalities to rescind any previous orders to the contrary.</p> <p>Later on March 25, in direct response to the letter from the Governor's Legal Office, Boston Mayor Marty Walsh affirmatively extended his March 16 order suspending all non-essential, permitted construction</p>

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		<p>construction <i>unless</i> construction is related to:</p> <ol style="list-style-type: none"> 1. Essential maintenance, manufacturing, design, operation, inspection, security and construction for essential products, services, and supply chain and COVID-19 relief efforts; 2. Maintaining the safety, sanitation, and essential operation of residences, businesses and buildings such as hospitals, health care facilities, senior living facilities, and any temporary construction required to support COVID-19 response; 3. Public works facilities and operations (including public schools and colleges, and properties managed by DCAMM), 4. Specific essential sectors and enterprises including: <ul style="list-style-type: none"> ▪ Renewable energy infrastructure; ▪ Energy sector fuels; ▪ Platform and drilling for the petroleum, natural gas, NGL, propane and liquid fuel industries; ▪ Dredging operations; ▪ New and existing pipelines; ▪ Water and wastewater; ▪ Infrastructure (highways, mass transit, air, rail); ▪ New and existing communications and IT infrastructure (fiber optic cables, buried conduit, small cells, cloud 	<p>in Boston. Somerville and Cambridge quickly followed Boston's lead in keeping construction shut down.</p> <p>On March 26, Governor Baker stated in a press conference that he understand Mayor Walsh's concerns and, on the morning of March 27, he temporarily halted public construction projects in the state to focus on safety and the implementation of the safety guidelines attached to his March 25 letter to municipalities.</p> <p>In light of the Governor's March 31 updates to the order and guidelines, these municipal orders can stand. Further enforcement guidance and supplemental guidelines were issued on April 2, 2020 containing required enforcement procedures for public projects that may be used by each city or town for ensuring the safety of both publicly- and privately-owned construction projects and supplement guidelines for construction in the Commonwealth.</p>

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		<p>computing, telework, computing services, etc.);</p> <ul style="list-style-type: none"> ▪ Continuity of critical building functions (security, HVAC, etc); ▪ Chemical and gas supply chains; ▪ Defense industry; and ▪ Waste. 	
Michigan	Construction Suspended Except Construction of Public Works and Public Health Infrastructure	<p>Effective April 9, 2020 and continuing through April 30, 2020, Governor Gretchen Whitmer ordered the suspension of activities that are not necessary to sustain or protect life. Some limited forms of construction are permissible under the order, including:</p> <ul style="list-style-type: none"> ▪ construction to maintain and improve roads, bridges, telecommunications infrastructure; ▪ public health infrastructure (such as the creation or expansion of hospitals or other medical facilities to provide or support the provision of necessary care during the emergency); ▪ projects that are necessary to maintain the safety, sanitation, and essential operations of a residence during the emergency; ▪ a business may designate a construction firm under Section 9(b) of the order to provide necessary support to the work of that business's critical infrastructure workers; and ▪ for non-essential projects that were underway when the order first went into effect. 	

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Minnesota	Construction Suspended Except for CISA Exempted Work and Other Critical Trades	<p>Effective April 8, 2020 and continuing until May 3, 2020, Minnesota's stay at home order has been extended. While many business sectors, including construction, are affected by the order, exceptions for the construction industry fall under sectors identified by (i) CISA on March 28, 2020 as essential (and as attached to the order) and (ii) "Construction and Critical Trades", which includes:</p> <ul style="list-style-type: none"> ▪ Construction of critical or strategic infrastructure, including construction material suppliers and workers providing services necessary to maintain construction material sources; and ▪ Workers supporting building code enforcement necessary to maintain public safety and health and for all ongoing construction; and ▪ Workers in the skilled trades such as electricians, plumbers, HVAC and elevator technicians, other related construction of all kind, operating engineers, and all other service providers who provide services that are necessary to maintain the safety, sanitation, and essential operation of homes and residences and the Critical Sectors listed in the order. 	
Mississippi	Construction Allowed to Continue	<p>Executive Order No. 1463, effective March 24, 2020 and updated on April 1, 2020 and again on April 17, 2020 to extend through 8am on April 27, 2020, most non-essential businesses and operations are ordered to close except</p>	

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		for certain essential business and operations, including construction.	
Missouri	Construction Suspended Except for CISA Exempted Work	Effective April 6, 2020 and as extended through May 3, 2020, Missouri's "Stay Home Missouri" order mandates all businesses not employing workers identified by CISA to adhere to limitations on social gatherings and social distancing. Exceptions related to construction under CISA include construction related to housing, continuity of building functions and safety, public works, communications, construction related to essential services and products, energy sector (including renewable energy) projects, and COVID-19 relief efforts.	
Montana	Construction Allowed to Continue	Effective March 28, 2020 as extended through April 24, 2020, all Non-Essential Business and Operations are ordered to cease. Exceptions related to construction fall under (i) sectors identified by CISA as essential on March 19, 2020 and (ii) "Essential Infrastructure" and "Critical Trades", including construction.	
Nebraska	Construction Allowed to Continue	Governor Ricketts has not issued a statewide business shutdown order affecting the construction industry.	
Nevada	Construction Allowed to Continue	Effective March 20, 2020 at 11:59 p.m. and extended through April 30, 2020, non-essential businesses in the state are ordered to close. The order permits construction and infrastructure sector labor forces to continue operations. Emergency Regulation NAC 414 issued on March 20, 2020 specifically lists construction as an essential business.	

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New Hampshire	Construction Allowed to Continue	Effective March 27, 2020 and extended until May 25, 2020, all businesses that do not provide Essential Services are ordered to close and cease operations. Guidance issued by the Governor includes as Essential Services "construction workers who support the construction, operation, inspection and maintenance of construction sites and construction projects (including housing construction)."	
New Jersey	Construction Suspended Except for Essential Construction	<p>Weeks after exempting construction workers from an order requiring that businesses reduce on-site staff to only those necessary to ensure that essential operations can continue, Governor Murphy issued Executive Order 122 requiring all non-essential construction projects to cease, effective 8:00 p.m. on April 10, 2020 and continuing until the order is revoked or modified by the Governor. Essential construction projects include:</p> <ul style="list-style-type: none"> ▪ Projects for health care, including hospitals, health care facilities and pharmaceutical manufacturing facilities; ▪ Transportation projects, including roads, bridges, and physical infrastructure, including work done at airports and seaports; ▪ Utility projects; ▪ Residential projects that are exclusively affordable housing; ▪ Projects involving K-12 schools, schools in Schools Development Authority districts and higher education facilities; 	

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		<ul style="list-style-type: none"> ▪ Projects already underway at a single-family home or single apartment unit, where an individual already resides, and with a construction crew of 5 or fewer; ▪ Projects already underway involving a residential unit which a tenant or buyer has legally agreed to occupy by a certain date, if construction is necessary for the unit's availability; ▪ Projects involving the manufacture, distribution, storage, or servicing of products sold by essential retail businesses; ▪ Data centers or facilities critical to a business's ability to function; ▪ Projects for the delivery of essential social services, including homeless shelters, including homeless shelters; ▪ Projects supporting law enforcement or first responders; ▪ Projects ordered by Federal or State government. ▪ Any work to secure and protect a non-essential construction project for its suspension; ▪ Any emergency repairs necessary for the health and safety of residents. <p>Guidance on policies that must be adopted at essential construction sites can be found here.</p>	
New Mexico	Construction Allowed to Continue	<p>All non-essential businesses were ordered to close effective March 24, 2020, which closure was extended through April 30, 2020. Public works, commercial and residential construction are all deemed essential and permitted to continue operating.</p>	

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New York	<p>Construction Suspended; Exemptions for Emergency Repairs Construction of Public Works, Schools, Hospitals, Affordable Housing, Existing Projects at Essential Businesses, and Small Projects</p>	<p>Effective March 22, 2020 at 8:00 p.m., all nonessential businesses are ordered to close through May 15, 2020 (as extended) and only “essential construction” shall be allowed to continue. The Empire State Development Corporation is authorized to determine which construction projects are essential and allowed to continue. Its guidance updated on April 17, 2020 defines “essential construction” to include the following projects:</p> <ul style="list-style-type: none"> ▪ Emergency repairs necessary to protect health and safety of the occupants or for which it would be unsafe to allow to remain undone until it is safe to shut the site; ▪ Roads; ▪ Bridges; ▪ Transit facilities; ▪ Utilities; ▪ Hospitals or health care facilities; ▪ Projects in the energy industry; ▪ Existing Projects at essential businesses; ▪ Municipal and school (public and private) projects; ▪ Affordable housing; ▪ Projects performed by a single worker on the job site; and ▪ Homeless shelters. <p>With the penalties for violations set at \$10,000 per violation, anyone seeking to continue working should seek the advice of legal counsel.</p>	

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		<p>According to the ESDC, for businesses that operate or provide both essential and non-essential services, supplies or support, only those operations necessary to support essential services, supplies, or support may continue. While the ESDC is considering requests for essential services designation (such forms are found here) requests by businesses to be designated essential “should only be made if they are NOT covered by the guidance.”</p> <p>For more in depth understanding of Governor Cuomo’s Order and related New York initiatives to protect the public, please see Foley’s alert New York Governor Cuomo’s Order Reducing Workplace Density Due to Coronavirus.</p>	
North Carolina	Construction Allowed to Continue	<p>Effective March 27, 2020 and continuing until April 29, 2020, Executive Order No. 121 mandates all non-essential businesses and operations to cease. Exceptions related to construction fall under (i) sectors identified by CISA, and (ii) "Essential Infrastructure Operations" and "Critical Trades", including construction.</p>	
North Dakota	Construction Allowed to Continue	<p>Governor Doug Burgum has not issued a statewide shutdown order that affects the construction industry.</p>	
Ohio	Construction Allowed to Continue	<p>Updated on April 2, 2020 and effective through May 1, 2020, all non-essential business and operations are ordered to cease and all individuals currently living in the state must stay at their place of residence. Exceptions related to</p>	

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		<p>construction fall under (i) sectors identified by CISA as essential on March 28, 2020 and (ii) "Essential Infrastructure" and "Critical Trades", which includes construction.</p> <p>For more in depth understanding of Ohio's order, please see Foley's alert: Ohio Order Prohibits Mass Gatherings and Other Business Operations.</p>	
Oklahoma	Construction Allowed to Continue	<p>Effective at 11:59 p.m. on March 25, 2020 and updated on April 2, 2020, all businesses not defined as a "critical infrastructure sector" are ordered to close through April 30, 2020. Exceptions related to construction include (i) sectors identified by CISA as essential and (ii) "essential businesses", which includes construction, contractors, and heavy and civil engineering construction.</p> <p>A list of "essential businesses" can be found here: Business Closures and Essential Business Information.</p> <p>For a general discussion of Ohio's Stay at Home restrictions, please see Foley's alert Ohio Order Prohibits Mass Gatherings and Other Business Operations.</p>	
Oregon	Construction Allowed to Continue	<p>Effective 12:01 a.m. on March 24, 2020, all businesses are ordered to facilitate telework and work-at-home by employees to the maximum extent possible. The order does not provide a list of businesses that may stay open, rather it lists only those businesses</p>	

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		<p>required to close because the nature of these businesses makes it impossible to adhere to the state's required social distancing protocol. Construction is not listed as a business expressly required to close. Oregon has specific guidance for contractors to implement social distancing policies, available here.</p>	
<p>Pennsylvania</p>	<p>All Construction Suspended; Exceptions for Hospitals and Emergency Repairs</p>	<p>Effective March 19, 2020 at 8pm EST, and as amended on March 20, 2020, all "non-life sustaining businesses" in the Commonwealth of Pennsylvania are closed until further notice. This includes closures to the construction sector, including:</p> <ul style="list-style-type: none"> ▪ Construction of buildings (residential and nonresidential); ▪ Heavy and Civil Construction (utilities, land subdivisions, highways/streets/bridges, and other heavy and civil engineering) ▪ Specialty trade contractors (foundations/structures/building interiors, building equipment, building finishes and other trades). <p>The order, however, allows the construction of hospitals and emergency repairs to all buildings to continue.</p> <p>A list of closures by industry can be found here. Guidance issued by the Governor's Office states that the industries permitted by the order to continue conform with the sectors identified by CISA as essential critical infrastructure.</p>	<p>Despite the strict statewide shutdown order in place, the Pennsylvania Department of Community and Economic Development has reportedly advised that construction activity that "directly supports electrical power generation, transmission and distribution" is not subject to the shutdown order.</p> <p>Two bills (House Bill 2400 and Senate Bill 613) that would relax restrictions on the construction industry are making their way through the Pennsylvania legislature.</p>

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		<p>For more in depth understanding of Pennsylvania's order, please see Foley's alert: Pennsylvania Issues Guidance for Businesses Concerning COVID-19 Mitigation Efforts.</p>	
Rhode Island	Construction Allowed to Continue	<p>Executive Order 20-14 (as extended pursuant to Executive Order 20-23) generally requires all Rhode Island residents to stay home unless traveling to work, medical treatments or obtaining necessities (food, medicine, gas, etc.) until May 8, 2020. While some sectors are expressly ordered to close, construction is not required to close.</p>	
South Carolina	Construction Suspended Except for CISA exempted Work	<p>Executive Order 2020-21 requires all persons to limit their movements outside of their home except for engaging in Essential Business or Critical Infrastructure Operations. Critical Infrastructure Operations includes those sectors identified by CISA as essential, including housing, construction related to essential services and products, energy (including renewable energy) projects, and infrastructure. The order remains in effect until rescinded by the Governor.</p>	
South Dakota	Construction Allowed to Continue	<p>Governor Noem has not yet issued a statewide shutdown order that affects the construction industry.</p>	
Tennessee	Construction Allowed to Continue	<p>Executive Order No. 22, effective March 31, 2020 and extended until April 30, 2020 pursuant Executive Order 27, requires businesses to close except for those related to essential services, which includes general construction-related services.</p>	

State	Construction Impact	Express Restrictions and Guidance	Local Variances and Additional Considerations
Texas	<p>Construction Suspended Except for CISA Exempted Work</p>	<p>Governor Abbott issued an order effective April 2, 2020 and continuing until April 30, 2020 that defines essential services to include those matters identified in the CISA guidelines, which guidance includes housing, construction related to essential services and products, energy (including renewable energy) projects, and infrastructure. Any local order that restricts essential services otherwise permitted under the statewide order is superseded.</p>	<p>The following local orders are now potentially in conflict with the state order and should be analyzed:</p> <p>City of Austin and Travis County: On March 24, 2020, the City ordered businesses to cease all activities and issued guidance that substantially restricted the types of construction projects that would be permitted to continue. Shortly after Governor Abbott issued a statewide order permitting all construction projects identified in the CISA guidelines, the City offered supplemental guidance to permit all commercial and residential construction projects to continue.</p> <p>The Travis County order and supplemental guidance mirror the City of Austin order.</p> <p>For more in depth understanding of Austin’s order, please see Foley’s alert Austin, Texas Mayor Issues “Stay Home – Stay Safe” Order.</p> <p>Dallas County: Effective March 23, 2020 at 11:59 p.m., all nonessential businesses are ordered to cease all activities at facilities located within the County. Residential, commercial and public works construction are listed as “Essential businesses” and are allowed to continue. The order was revised effective April 6, 2020 to extend the order through April 30, 2020, prohibit elective additions and maintenance and to impose additional safety requirements particular to construction sites, which requirements can be accessed here, including mandatory temperature checks of all workers.</p> <p>Harris County: Effective March 24, 2020, and as updated, all individuals within Harris County are ordered to stay at their place of residence and all businesses, except Essential Businesses, are required to cease all activities through April 30, 2020.</p>

State	Construction Impact	Express Restrictions and Guidance	Local Variances and Additional Considerations
			<p>Residential, commercial and public works construction are listed as “Essential Businesses” and are allowed to continue.</p> <p>For more in depth understanding of Harris County’s order, please see Foley’s alert Harris County Judge Lina Hidalgo Announces a “Stay Home Work Safe” Order To Take Effect at 11:59 p.m. on March 24.</p> <p>City of San Antonio and Bexar County: Effective as of 11:59 p.m. on March 24, 2020, and extended until 11:59 p.m. on April 30, 2020, all individuals currently living within the City of San Antonio are ordered to shelter at their place of residence and all Non-Exempt Businesses must close. Exempted Businesses include public works, commercial and residential construction.</p> <p>The updated Bexar County order, extending until April 30, 2020, similarly exempts public works, residential and commercial construction from the closure order.</p>
Utah	Construction Allowed to Continue	Governor Herbert’s “ Stay Safe, Stay Home Directive ” effective March 30, 2020 and, as updated , continuing until May 1, 2020, requires businesses to consider how best to decrease the spread to COVID-19, but does not order the general closure of businesses. With the consent of the State, local authorities are permitted to impose more stringent directives.	Salt Lake County: Continuing until May 1, 2020, all residents are ordered to stay at home unless for essential activities or to work at essential businesses. Public works, residential and commercial construction are all considered essential businesses.
Vermont	Construction Suspended Except for Critical Infrastructure and COVID-19 Response	Effective March 25, 2020 at 5:00 pm, and as updated on April 10, 2020, all businesses are ordered to cease in-person through May 15, 2020. Construction necessary to support the COVID-19 response and maintain critical infrastructure (including utilities, telecommunication, airports and	

State	Construction Impact	Express Restrictions and Guidance	Local Variances and Additional Considerations
		transportation infrastructure) is exempt from the order.	
Virginia	Construction Allowed to Continue	Executive Order No. 53 , as amended by Executive Order No. 55 and extending through June 10, 2020, generally requires the closure of certain retail businesses and that residents stay home unless traveling to work, among other things. Construction is not specifically addressed for closure.	
Washington	Construction Suspended; Exemptions for Critical or Strategic Infrastructure, Housing, Emergency Repairs and Projects that Ensure Structural Integrity	<p>Effective midnight on March 25, 2020 all residents are ordered to stay home and Non-Essential Businesses are ordered to close, except for performing minimum business operations. On April 2, 2020, the order was extended to May 4, 2020 under Order 20-25.1. Residents and businesses exempt from the order are listed here, and include:</p> <ul style="list-style-type: none"> ▪ Construction of critical or strategic infrastructure; ▪ Construction workers that support construction, operation, inspection and maintenance of construction sites and construction projects (including housing construction) for all essential facilities, services and projects otherwise exempted; ▪ Residential construction related to emergency repairs and projects that ensure structural integrity; and ▪ Plumbers, electricians and other who provide services that are necessary to maintaining the safety, sanitation and essential operation of construction sites and projects. 	<p>The Governor further clarified that commercial and residential construction are not generally permitted, other than:</p> <ul style="list-style-type: none"> ▪ Construction related to essential activities explicitly described in the order; ▪ To further a public purpose related to a public entity or governmental function or facility, including but not limited to publicly financed low-income housing; or ▪ To prevent spoliation and avoid damage or unsafe conditions, and address emergency repairs at both non-essential businesses and residential structures.

State	Construction Impact	Express Restrictions and Guidance	Local Variances and Additional Considerations
West Virginia	Construction Allowed to Continue	Executive Order No. 9-20 , effective at 8:00 p.m. on March 24, 2020 and as amended April 4, 2020, mandates residents to stay home and all Non-Essential Businesses and Operations to temporarily cease operations, except for minimum basic operations. Construction is considered an essential business and allowed to continue.	
Wisconsin	Construction Allowed to Continue, Optional or Aesthetic Construction Should be Avoided	Pursuant to Emergency Order # 12 (as updated by Emergency Order #28), all Non-Essential Business and Operations are ordered to cease. Construction is considered an essential business and allowed to continue, except that optional or aesthetic exterior construction involving more than one worker is expressly prohibited. The order remains in effect until May 26, 2020. For more in depth understanding of Wisconsin's order, please see Foley's alert: Update: Wisconsin Adopts "Safe at Home" Order Through May 26 .	The State of Wisconsin order supersedes any conflicting local order.
Wyoming	Construction Allowed to Continue	Governor Mark Gordon has not issued a statewide shutdown order impacting construction.	