



AGC NYS Newsletter May 14, 2020

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of New York State
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Industry News

Cuomo Administration Publishes "NY Forward" Interim Construction Guidance; AGC NYS Membership Briefing Scheduled for Today (5/14) at 2pm on Zoom

The Governor's Office has this evening published detailed interim guidance for construction as part of phase one of the "NY Forward" Reopening Plan. You can view the guidelines and related documents [at this link](#), including the [summary guidelines](#) and [detailed guidelines](#).

Businesses will be required to affirm with the State their adherence to the guidelines and requirements through completion of [an online form](#).

The State has also provided a [safety plan template](#). This plan does not need to be submitted to for approval but must be retained on the premises of the business and made available to the New York State Department of Health (DOH) or local health or safety authorities in the event of an inspection.

AGC NYS staff is still reviewing these documents, which at first glance we think are significantly in line with the AGC NYS reopening plan we developed. For reference, you can [view the AGC NYS plan here](#).

AGC NYS will hold a briefing and Q & A session on the guidelines for our membership today, Thursday May 14 at 2pm via Zoom. [Registration at this link is required](#). Participation in the briefing is limited to the first 500 registrants.

We will continue to keep the AGC NYS membership informed as more details and information become available.

Gov. Cuomo Details Rules and Procedures for Regional Re-opening of New York Beginning May 15

Gov. Andrew Cuomo today outlined the State's plan for a regionally-based, phased restart of New York's economy, beginning May 15. The Governor's Office has published a "NY Forward Guide to Re-Opening and Building Back Better," which you can [access at this link](#). To read more, [click here](#).

AGC NYS COVID-19 Resources Page

AGC NYS has established a resources page on a wide range of topics for our members. Please check back often, as the information on this page is updated throughout the day. Visit agcnys.org/coronavirus for the most recent information.

"Phase 4" Stimulus E-Letter Campaign Starts NOW

With the U.S. Senate and House of Representatives actively discussing a massive "Phase 4" federal stimulus bill, now is the time to send an e-letter to Senators Schumer and Gillibrand, and your Congress member in support of the AGC NYS seven point plan to keep the construction industry working in New York. [Click this link to send an AGC NYS Voter Voice e-letter today!](#)

Good News from the SBA and Treasury About PPP Good Faith Certifications

The Small Business Administration (SBA) and Department of Treasury issued updated guidance on how the SBA will review borrowers' required good-faith certification concerning the necessity of their loan request. [Read FAQ 46 here](#). You can also read the [full PPP FAQ here](#).

AGC NYS Compiles Industry Recap and Business Outlook for Members Applying for PPP

In response to the increasing questions and confusion about the Paycheck Protection Program, AGC NYS has [compiled a packet of information](#) for our members for the purpose of PPP applications moving forward. [This packet of documents](#) is intended to provide a backdrop of information related to market conditions and business concerns specifically in New York State.

Enclosed you will find several documents published by AGC NYS, including our "NY Forward" Recovery Plan, a call to provide additional funding to the MTA as well as the results of the AGC NYS COVID-19 Survey. There are also several documents dedicated to the financial outlook of New York State, as well as media clips following COVID-19 economic concerns related to the Paycheck Protection Program.

We encourage our members to [click here to view](#) and keep this document on hand. AGC of America released a national "Recap of Current Construction Business Conditions," which [can be found here](#).

AGC NYS Zoom Town Hall with Congresswoman Elise Stefanik

Friday, May 15 | 11:00 a.m. | [REGISTER HERE](#)

Join us for a Zoom meeting with Congresswoman Elise Stefanik for a report about the federal response to the COVID-19 pandemic and discussion about "Phase 4" of stimulus funding. This meeting requires Zoom, and no phone dial-in will be available. Zoom is best used through the app on a computer or mobile device, and [can be downloaded here](#).

AGC NYS Zoom Town Hall with Congressman Lee Zeldin

Wednesday, May 20 | 11:00 a.m. | [REGISTER HERE](#)

Join us for a Zoom meeting with Congressman Lee Zeldin for a report about the federal response to the COVID-19 pandemic and discussion about "Phase 4" of stimulus funding.

This meeting requires Zoom, and no phone dial-in will be available. Zoom is best used through the app on a computer or mobile device, and [can be downloaded here](#).

Do you have a webinar idea for AGC NYS?

Is there a webinar topic that you think would be valuable for AGC NYS to produce for the membership? Please e-mail Brendan Manning at bmanning@agcnys.org.

Webinar Recordings and Slides to Date

Below please find links to AGC NYS and AGC of America webinars regarding the COVID-19 pandemic and related business topics.

AGC NYS

[Workforce Reduction & Paid Family Leave Webinar \(3/23\)](#)

[Insurance, Bonding and Workers Compensation Webinar \(3/29\)](#)

[PAUSE-NY and ESD Guidance Webinar \(3/31\)](#)

[Contract Issues in the Age of COVID-19 Webinar \(4/1\)](#)

[Collaborative Leadership in Design & Construction in the Age of COVID-19 \(4/14\)](#)

[Navigating New Loan and Business Assistance Programs Webinar \(4/16\)](#)

[Assessing Your COVID-19 Executive Orders/Workforce Compliance Webinar \(4/21\)](#)

[Dealing with Personal Injury Claims in the Wake of COVID-19 \(4/23\)](#)

[Office Safety Protocols - Guidance for Employers Reopening Construction Offices \(5/13\)](#)

AGC of America

[You can find all of the AGC of America webinars here.](#)

AGC of America Webinar Access Information

As a reminder, you will need your AGC of America login to access all AGC of America content. If you don't know your login, please follow these instructions:



1. Visit the AGC website at www.agc.org
2. In the upper left hand corner of the home page, click "Login"
3. On the next page, enter your work email address and click "forgot password"
4. Check your email for a link to reset your password
5. Now you can register for the webinar series as a member

If you have any issues, reach out to membership@agc.org.

AGC NYS Anthony S. Santaro Scholarship Classic Update

A number of members have been inquiring about the status of the 2020 AGC Anthony S. Santaro Scholarship Classic Golf Tournament at Turning Stone, scheduled for Tuesday, June 23, 2020.

We continue to closely monitor the status of ongoing New York State prohibitions on large scale gatherings and the operation of facilities such as Turning Stone which would determine whether or not such an event could be held in June.

Our alternate date is Wednesday, September 2.

We will keep the membership informed on the status of this and other AGC NYS events that may be impacted by state-imposed restrictions.

Government Affairs

STATE NEWS

AGC NYS Meets With Transportation Committee Chairs Kennedy and Magnarelli

AGC NYS staff held Zoom meetings with Senate Transportation Committee Chairman Tim Kennedy and Assembly Transportation Chairman Bill Magnarelli to discuss the status of the NYSDOT capital plan, CHIPS funding, and the AGC NYS "NY Forward" construction plan. The Chairmen indicated that they are expecting some clarity about the status of state transportation funding in the next week or two and indicated a strong possibility that the Legislature may return soon to conduct legislative business.

TRIP Report Finds Significant Deficiencies on New York's Rural Bridges and Roads

According to a new report released by TRIP found significant deficiencies on New York's rural bridges and roads. The report, Rural Connections: Challenges and Opportunities in America's Heartland, evaluated the safety and condition of the nation's rural roads and bridges and found that New York's rural bridges have significant deficiencies and the state's rural roads have a traffic fatality rate among the highest in the nation. Twelve percent of New York's rural bridges are rated in poor/structurally deficient condition, the eighth highest rate in the nation. Bridges rated poor/structurally deficient have significant deterioration to the major components of the bridge and are often posted for lower weight or closed to traffic, restricting or redirecting large vehicles, including agricultural equipment, commercial trucks, school buses and emergency services vehicles. Ten percent of New York's rural roads are rated in poor condition and 18 percent are in mediocre condition. There were 429 fatalities on New York's non-Interstate, rural roads in 2018. The rate of traffic fatalities on New York's non-Interstate, rural roads is significantly higher than the fatality rate on all other roads in the state – 2.24 fatalities per 100 million vehicle miles of travel vs. 0.49 – and is the 12th highest in the nation. Rural roads are more likely to have narrow lanes, limited shoulders, sharp curves, exposed hazards, pavement drop-offs, steep slopes and limited clear zones along roadsides.

COVID-19 Pandemic Poses Problems for State Bond Offerings and U.I. Fund Solvency

The disproportionate economic and social impact of the COVID-19 pandemic on New York is posing a significant problem for state bond offerings and the solvency of the unemployment insurance (U.I.) fund. AGC NYS continues to urge Congress to provide a funding increase to the federal Municipal Liquidity Fund, and loan forgiveness should the state require federal funding to keep the U.I. fund solvent. Recently, New York State Department of Labor Commissioner Roberta Reardon stated that the U.I. fund is strong but, AGC NYS remains concerned due to the number of workers filing claims for enhanced benefits.

FEDERAL NEWS

AGC NYS Congressional Town Halls Provide Insight on Federal Stimulus Program

With Congress closed to the public for regular business, AGC NYS is hosting Zoom town hall meetings to connect the membership with key members of the NYS Congressional Delegation. The first two town halls featured Rep. Sean Patrick Maloney and Rep. Tom Reed. Upcoming town halls are scheduled with [Rep. Elise Stefanik on May 15](#) and [Rep. Lee Zeldin on May 20](#). AGC NYS members are strongly encouraged to register for the upcoming town hall meetings.

AGC NYS Members Meet with Congressman Tom Reed

AGC NYS members from across the state participated in a town hall meeting with Congressman Tom Reed to discuss the prior and upcoming federal stimulus proposals. Rep. Reed is a member of the bipartisan Problem Solvers caucus which works to cut through the partisan bickering on Capitol Hill to find sensible solutions to help all Americans. AGC NYS members expressed concerns about transportation funding, the slow down of building projects caused by fiscal stresses on public and private entities, the Cares Act, and the weakened bond market.

AGC NYS Letter to Congress Outlines Seven-Point Plan to Jumpstart and Stabilize Construction

In a letter to the NYS Congressional Delegation, AGC NYS urged members of Congress to support a seven-point plan to help jumpstart construction and provide a fiscal stability road map for the future. The AGC NYS plan includes: support for the National Governors Association bipartisan request for \$500 billion for a federal-state partnership; direct aid to state and local governments; \$49.5 billion for state departments of transportation; a broader "public works" program to support economic stimulus; \$3.9 billion for the MTA's 2020 operating budget; expanding the Municipal Liquidity Facility program; and COVID-19 Liability Protections for businesses. [A copy of the letter is available here.](#)

Voter Voice "Phase 4" E-Letter Campaign Connects Membership With Congress

With the U.S. Senate and House of Representatives actively discussing a massive "Phase 4" federal stimulus bill, now is the time to [send an e-letter](#) to Senators Schumer and Gillibrand, and your Congress member in support of the AGC NYS seven point plan to keep the construction industry working in New York. [Click this link to send an AGC NYS Voter Voice e-letter today!](#)

House Democrats Unveil \$3 Trillion Heroes Act Bill

[Click here](#) for the initial highlights of the \$3 trillion House Democrats' Heroes Act legislation in response to the coronavirus pandemic. The Heroes Act: increases direct aid for state and local governments; infrastructure funding; multiple changes to the CARES Act including the Paycheck Protection Program; extends unemployment insurance benefits; workforce training and worker protection; grants for hospital and health care providers; education funding; multi-employer pension plans; accelerated payments to contractors; elimination for 2020 and 2021 of limitation on deduction of state and local taxes; OSHA standards; Family Medical Leave Act and paid sick leave; and provides more direct payments to Americans. The House is expected to pass the bill on Friday, May 15.

NEW YORK CITY NEWS

City Council Committee Meets to Discuss COVID-19 Pandemic "Recovery" Bills

Last week, the City Council held a seven-hour committee meeting to discuss a series of COVID-19 "recovery" bills, none of which help out business. AGC NYS is particularly concerned about a proposal that would mandate hazard pay to certain employees. The bill requires employers of 100 or more to make additional hazard payments to employees: \$30 for employees working four hours; \$60 for employees working 4-8 hours; and \$75 for employees working 8 or more hours. In addition to the massive costs on business, AGC NYS and the Building Contractors Association expressed concerns about the impact of additional hazard pay on collective bargaining agreements. After seven long hours, Councilwoman Laurie Cumbo, the sponsor of the hazard pay bill, admitted that the bill is flawed and is looking for additional input. [The AGC NYS opposition memo is available here.](#)

Mayor de Blasio Announces Advisory Council to Restart Economy – Construction Not Represented

Mayor Bill de Blasio appointed members to the following Sector Advisory Councils: Non-Profit and Social Services, Public Health and Healthcare, Faith-based, Construction and Real Estate, Education, and Surface Transportation.

This is in addition to the Sector Advisory Councils on Labor and Workforce; Large Business; Small Business; and Arts, Culture, and Entertainment. Sector Advisory Councils will inform the Administration's efforts to restart the economy and city life. The councils will serve as critical links to disseminate information about re-opening and provide guidance to shape the City's response to the COVID-19 pandemic. A glaring omission from the Mayor's Sector Advisory Councils is representation from businesses in the construction industry.

Building News

Latest Construction Data Shows Deteriorating Demand for Construction Projects

AGC of America Calls for New Measures to Revive Industry

AGC Partner Procore [released near real-time construction data](#) which shows disturbing information about the loss of construction jobs in April and a deteriorating demand for construction projects. AGC of America Chief Economist Ken Simonson notes: "The construction slump is much lighter for heavy and civil engineering firms, possibly indicated more work for highway, airport and utility projects than for building projects."

Unfortunately, this tracks anecdotal information we are hearing in New York State. Matters are made worse in New York State due to the tremendous impact being felt by State and Local Governments in both revenues and municipal bond sales. As just one prime example, New York City School Construction Authority President Lorraine Grillo reports that nearly all their projects will remain shut down, primarily due to NYC revenue issues.

AGC of America has called on Congress to act on a variety of measures to revive the industry. AGC NYS sent a letter to the NY Congressional Delegation calling for financial support for hard hit States and Municipalities, funding for a variety of measures including funding for a broad range of infrastructure - including building infrastructure - and efforts to shore up the municipal bond market. In addition, we have asked AGC NYS Members to [send a VoterVoice e-letter](#) to Congress on those points.

Guest Column from American Global: NY Classification Code for Temporary Change in Duties (COVID-19) Reassigned Employees And Claims Related COVID-19

[The long awaited COVID-19 payroll and claims ruling was just released.](#) The New York Compensation Insurance Rating Board (NYCIRB) released Bulletin RC2515 dated May 1, 2020 providing for a new classification code 8873 for COVID-19 "Temporary Change in Duties". Use of class code 8873, loss cost \$0.13 is essentially assigned to temporary reassigned employees during New York's stay-at-home order related to the COVID-19 pandemic. The rate class should be considered in scope similar to clerical class 8810, loss cost also \$0.13. Be mindful that there are strict criteria for assignment of 8873 as opposed to the employees' regular classification. In this regard, it is critical to maintain separate payroll records with clear and verifiable duties for each employee. Actual assignment of classifications will as always be within the purview of the carrier and NYCIRB.

[A second notice is also included in the bulletin](#) which will exclude COVID-19 Related Claims from Experience Ratings. As you would with non-COVID-19 claims, you should understand that when a COVID-19 claim is reported, you must be prepared to verify all relevant duties, as well as medical evidence.

It is important to understand how to advocate that COVID claims not be included towards your loss ratio, loss picks and other measures affecting your desirability as a risk.

Essentially, the rules are effective for all new and renewal policies effective May 1, 2020, as well as to all in-force policies as of March 16, 2020.

Interpretations and rulings will be at issue as future payroll audits and claims become subject to this ruling. A copy of the bulletin is attached for a full reading of the governing conditions for payroll and claims.

AGC NYS would like to thank Jack Frazier of American Global for providing this update.

Highway News

Highway Industry – COVID-19 Updates

Business as usual as possible with both NYSDOT and Thruway. Lettings and awards will be proceeding as usual, we have seen the Thruway lettings begin to be impacted. NYSDOT projects are continuing to be awarded as usual, and pre-construction meetings are being held virtually. Any possible budget impacts we should be hearing about this week and will discuss in the Regional Meetings May 26 - June 3.

Clear and open lines of communication will be the industry's biggest assets the next few weeks while everyone navigate this. Be sure to follow all procedures outlined in the Standard Spec regarding documentation for delays and/or claims as they become known. We encourage employers to use their best judgement regarding CDC guidelines, and do your best to minimize contact between employees during all activities. Your office staff should also be reduced to as many telecommuting employees as possible.

As regions begin to open, be sure stay updated on changing/updating requirements. All can be found at the [AGC NYS COVID-19 Resource Page](#).

Regional Highway Zoom Meetings Registration Open - New Dates

Due to COVID-19, all in-person highway membership meetings have been canceled. As business continues to move forward, and many facets of construction begin to re-open, we want to keep our highway membership up to date on all current happenings and keep open lines of communication open with regional offices of the Agencies. NYSDOT, Thruway, Canals, LIRR and MTA will be participating where applicable by region. The meeting experience is better if you use the Zoom app, which is available on your phone, tablet or computer. **All meetings will begin promptly at 3:45pm and run through 5:00pm. You must register in order to attend.**

[Region 1 – Tuesday, May 26](#)

[Region 2 – Wednesday, May 27](#)

[Region 4 – Thursday, May 28](#)

[Region 6 – Monday, June 1](#)

[Region 8 & 11 – Tuesday, June 2](#)

[Region 10 – Wednesday, June 3](#)

Diesel Emissions Reduction Act – LAST CHANCE TO SUBMIT COMMENTS, DUE May 15, 2020

As a result of Covid-19 and Executive Order 202, the Department is cancelling the previously scheduled public hearings for this proposed rule-making and extending the comment period. The public comment period will end 5:00 pm, Friday, May 15, 2020. To be the most effective with our comments, we are encouraging the membership to [use our comment template here](#). Please be sure to add comments that specifically pertain to your business. It is important that we submit individually as DERA has diverse impacts across the industry. The comments should be submitted on your company letterhead and addressed to:

James Bologna, P.E.
New York State Department of Environmental Conservation
Division of Air Resources
625 Broadway
Albany, NY 12233-3255
Phone: (518) 402-8292
E-mail: air.regs@dec.ny.gov

**** Please Forward your submitted comments to [Brendan](#) or [Sarah](#) ****

Additional information regarding current DERA status:

1. The Proposed Rulemaking Changes in the NYS Register on DERA - Part 248. We have reviewed them in-house and its more-or-less updating the new effective dates for the regulations to December 31, 2020 and includes the terms "On behalf of" that was cleared up a number of years ago via the court decisions. You can [view the NYS Register here](#) to read the updates (starts on page 7). As part of the Rulemaking, DEC is looking

- for Public Comments (due by May 15, 2020).
2. DEC rolled out 3 new updates. They are the Annual Reporting, Vehicle Inventory and Waiver of BART form which you can now waive Low Mileage Equipment (less than 1000 miles or 100 hours per year). You can find them [at the top of the page here](#).
 3. All 2019 information [can be found here](#).

Recent Engineering Issuances Posted by NYSDOT

EB 20-028 Revision to Bridge Detail Sheets - Approach Drainage Details (BD-AD1 Thru BD-AD7)

Effective Date: September 1, 2020

This EB announces the creation of revised BD sheets providing a revised detail for stone drainage gutter and better defines the procedure for determining the type of shoulder material used beneath the bridge transition railing.

EB 20-030 Amended Standard Sheet Book - Effective May 1, 2020

Effective Date: May 1, 2020

To announce the adoption of an amended Standard Sheet Book containing sheet numbers for sections 606-607 dated May 1, 2020 as published on the Department's website.

EB 20-029 Local Projects Manual (LPM), Chapter 4, State Local Agreements, Retention Exhibit (Federal Tax Law and NYS Extended Records Retention Requirements)

Effective Date: May 4, 2020

To notify Sponsors of projects that include Marchiselli or "Other" State funds of the requirements of the Federal Tax Law and NYS Extended Records Retention Requirements.

EB 20-031 Local Projects Manual (LPM), Chapter 12, Construction Contract Requirements, Subsection 12.4.1.1, Prevailing Wage Rates, Use of Convict Labor and Materials

Effective Date: May 6, 2020

To revise outdated language in Chapter 12, Subsection 12.4.1.1, about Prevailing Wage Rates, Use of Convict Labor and Materials.

EI 20-012 New York State Bridge Collapse Reporting System

Effective Date: May 6, 2020

The purpose of this EI is to continue a uniform method of reporting bridge collapses (both on and off the State system) in a timely fashion to the appropriate parties involved, for the purpose of maintaining a comprehensive bridge collapse database.

EI 20-011 Revisions to Section 553 Cofferdams and Temporary Waterway Diversion Structures

Effective Date: January 1, 2021

This EI submits the following changes: The section on submittals has been moved from Description to Construction, to conform with standard format for specifications; Type 1 and Type 2 Cofferdams are defined; Wording has been changed to make clearer the intent of the specification; The use of sand bags is no longer allowed; Environmental requirements are more thoroughly defined.

REMINDER:

Effective on or after May 1, 2020

EI 20-002: REVISIONS TO SECTION 619 OF THE STANDARD SPECIFICATIONS - TEMPORARY POSITIVE BARRIER AND SECTION 704-05 – PRECAST CONCRETE BARRIER

Temporary Concrete Barrier has been divided into 7 categories based on posted speed, allotted deflection and pinned/unpinned conditions. The J-J Hook System is only allowed for Categories 1, 2, 4 and 6. To see the full breakdown, find the updated approved materials list here: <https://www.dot.ny.gov/divisions/engineering/technical-services/technical-services-repository/alme/pages/791-1.html> * note the approved list discusses categories labeled A-G – these are a direct correlation to categories 1-7 (A=1, B=2, C=3 etc.) *Please be aware of this changed requirement when bidding projects let on or after May 1.*

2020 NYS HMA Density Testing Inspector Certification Course UPDATES

The AGC NYS-sponsored HMA Density Testing Inspector Certification Program provides qualification of personnel performing density testing on Hot Mix Asphalt in New York State. Certification is required for testing on all NYSDOT and Thruway paving projects and is valid for five years. Technicians must attend a two-day program and successfully pass the written examination. Certificates expire after 5 years; a re-certification exam must then be taken and passed. The course and exams are administered by Alfred State College.

2020 Schedule:

TWO-DAY COURSES

- May 28-29, Newburgh, NY – New Online Course
- August 10-11, Newburgh, NY

New Date will be added as needed

NOTE: Exam held on second day of course

For registration and payment info contact:

The Center for Community Education and Training
 Alfred State College
 10 Upper College Drive
 Alfred, NY 14802
 Fax – 607-587-3295
 Email – ccet@alfredstate.edu

You can find more information and the [registration form here](#). If you previously registered for the April course that was canceled and have not received a call, please contact Tammy at ccet@alfredstate.edu to get rescheduled into an online module.

Safety News

Order Your COVID-19 New York Construction Jobsite Poster

The AGC NYS COVID-19 Construction Jobsite Poster contains the most current information from these agencies:

- CDC
- OSHA
- NYC DOB
- NYS DOL
- US FED DOL

Alert your jobsite workers to the necessary information to stop the spread of COVID-19 and protect everybody on site. Highly visible color print scheme. Printed on specially laminated, UV, and weather resistant material for indoor and outdoor posting. Applicable for all NYS and NYC jobsites.



[Click here for the order form.](#)

OSHA's "Ten Steps All Workplaces Can Take to Reduce Risk of Exposure to Coronavirus" Poster is Now Available in 13 Languages

OSHA's popular 10-step poster to reduce COVID-19 risk is now available in 13 languages. For the full library of OSHA downloads, [click here](#).