



# AGC NYS Newsletter July 23, 2020

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## ***Industry News***

### ***IMPORTANT UPDATE: MTA Board Adopts Revised Debarment Regulation***

The MTA Board yesterday adopted final regulations on the debarment of contractors, responding to public comment and significant industry concern.

[A summary of the new regulation can be found here.](#)

AGC NYS and our industry partners appreciate the MTA Board’s responsiveness to the substantial concerns raised by the industry, transit advocates and others in response to the original debarment policy.

### ***Support the AGC NYS Scholarship with an Online Silent Auction Item***

In June of this year, the AGC NYS Scholarship Committee awarded \$55,000 in scholarships to well deserving students majoring in construction related programs who plan to work in our industry. One of our greatest scholarship fundraisers each year takes place at the Anthony S. Santaro AGC NYS Golf Classic. As you are aware due to COVID-19 we have had to cancel this year’s tournament. In order to raise money for the AGC Scholarship Fund we are going to hold an online Silent to be announced sometime in September 2020.

We are seeking items for the Auction. Below are some suggestions for donation:

- Golf Items including Clubs (drivers, putters, wedges), Golf Bags, Pull/Push Carts etc.
- Tools including battery powered drills, hammer drills, blowers, weed and bush trimmers
- Equipment Rentals
- Vacation Rentals/Timeshares
- Rounds of Golf
- Spa Days
- Gift Baskets with a variety of items
- Gift Cards or Gift Certificates

If you or you firm would like to make a donation of a silent auction item please you [can go online here \(include a photo\)](#) or [download a fill .pdf form here](#) and return to Brendan Manning at the AGC NYS at [bmanning@agcnys.org](mailto:bmanning@agcnys.org).

### ***Congress Returns to D.C. - Email Your Representative TODAY to Support AGC NYS Stimulus Plan***

*Send and email today to support funding for New York’s infrastructure.*

Over the past several months, AGC NYS has hosted 15 “Congressional Town Halls” and authored two stimulus support letters to the New York Congressional Delegation (The Delegation). AGC NYS is working with The Delegation on a seven-point plan in the next bipartisan COVID-19 recovery federal funding bill that will help construct and rebuild New York’s building, transportation, and environmental infrastructure this year and in 2021.

**[Send an email today to The Delegation to support funding for New York’s infrastructure.](#)**

### ***NYSDOH Publishes Emergency Rule Requiring Business Operators & Building Owners Deny Admittance or Remove Those not Wearing Face Coverings***

The New York State Department of Health published [an emergency rule](#), which took effect on July 9, 2020. The rule is confusing to read in many ways, in that it restates many of the restrictions in place prior to phased re-opening that have been superseded by subsequent Executive Orders and therefore are not in force based on those Executive Orders to implement re-opening.

Significantly, however, [Section 66-3.2](#) of the rule creates a new requirement that:

(d) Business operators and building owners, and those authorized on their behalf shall deny admittance to any person who fails to comply with this section and shall require or compel such persons' removal. Provided, however, that this regulation shall be applied in a manner consistent with the federal American with Disabilities Act, New York State or New York City Human Rights Law, and any other applicable provision of law.

Violation of this section by an individual is subject to a civil penalty of up to \$1,000 per violation. Businesses are subject to civil penalties of up to \$2,000 per day of violation.

As this is a broad requirement that applies to all businesses, we will be working with our partners at the Business Council to seek additional clarification on this rule.

We will, as always, keep the membership informed of relevant developments.

### ***Governor Cuomo Announces Individuals Traveling to New York from 10 Additional States Will be Required to Quarantine for 14 Days***

The full, updated list of states on the travel advisory is below:

Alaska, Alabama, Arkansas, Arizona, California, Delaware, Florida, Georgia, Iowa, Idaho, Indiana, Kansas, Louisiana, Maryland, Missouri, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Mexico, Nevada, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin

Minnesota has been removed from the original list.

### ***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](http://agcnys.org/coronavirus) for the most recent information.

### ***AGC NYS Webinar - Is Your firm's Cyber Security Plan Truly Secure?***

Join us Tuesday, August 4 at 10:00 a.m., as three industry experts share ideas on how to create a Cyber Security plan to protect your firm legally, with technology, and with insurance products.

Topics will include:

- Current State of Cyber Crime Today
- Top data breaches of 2019-2020
- Average Costs of a Cyber Breach
- Many times, the "unintentional insider" is to blame
- Meaningful training methodologies
- Why Employers Need a Cyber Insurance Policy
- Review Strategies Mitigating Cyber Risk
- Responding to Breaches under New York Law
- Maintaining a "Reasonable" Cybersecurity Posture

**Speakers:** Leslie Corbo, D.Sc., Director of Cybersecurity Programs, Utica College  
Paul Hacker, Senior Account Executive, New Business, Axis Insurance Services, LLC  
James M. Paulino II, Esq., Partner, Goldberg Segalla

**Fee:** \$15/AGC and BCA member or \$25/nonmember

**Registration:** You will register on the [Go-To-Webinar site here](#) and then automatically be sent to the AGC NYS web page to put in your contact and credit card information for payment.

### ***AGC of America Education and Research Foundation Undergraduate and Graduate Scholarship is Now Open***

*Apply by November 1, 2020 - [Click here to apply.](#)*

Each year the AGC Education and Research Foundation offers undergraduate and graduate level scholarships to students enrolled in construction management or construction related engineering programs. Over \$10 million in scholarships have been awarded to more than 4,000 students attending colleges and universities across the country. Through endowments made by AGC members and supporters, as well as AGC Chapters, the Education and Research Foundation awards over 100 scholarships each year to students dedicated to pursuing a career in the construction industry. Please be sure to share this with those in the industry, interns, college faculty or anyone you may know who qualifies.

### ***AGC NYS Offers COVID-19 Safety App***

The Safety Meeting App has been a long time partner of AGC NYS, and now includes a free COVID-19 version of the app, designed specifically to meet the needs of the New York Forward Plan for Reopening Businesses. The app includes 4 forms that are easily filled out by the user(s), archived, transferable via email, and tracked by the administrative dashboard. Forms included are the Employee Pre-Screening Health Questionnaire, Non-Compliance Disciplinary Violation, Daily Cleaning Log, and Visitor Log. The New York Forward Plan has a lot of paperwork components that must be completed, and we feel this app can be of great assistance in reducing the physical paper and recording. The PreScreening Questionnaire is designed to be used by employees at home prior to starting work. The questionnaire can be completed and recorded in the app.

The Safety Meeting App was first introduced to us for their ease of use relative to jobsite ToolBox Talks. That portion of the app still exists and has been enhanced over the years to include checklists and other features. Current clients of the The Safety Meeting App will be able to get the COVID-19 portion seamlessly.

To find out more about The Safety Meeting App, [visit our website](#) and use the link provided to sign up or purchase. A flyer is also there for you to review. The NY Forward forms are also posted on [a separate webpage here](#).

If you are interested in getting the app for your company and your subcontractors, we can assist in getting you set up with the app developers directly. Their team will walk you through all stages of setup. You can reach out to [Jim Redmond](#) and [Dennis Kiefer](#) for more information. Or [watch the webinar recording here](#).

## ***Government Affairs***

### ***STATE NEWS***

#### ***Senate and Assembly Return to Conduct Virtual Committee Meetings and Legislative Session***

With the State Capitol closed to the public, the New York State Senate and Assembly returned to Albany to conduct virtual committee meetings and legislative sessions. Despite the lack of public access to the State Capitol, AGC NYS and our legislative partners educated lawmakers and staff through phone calls and emails. The agendas were primarily focused on COVID-19 related bills and routine housekeeping. At the time of this publication, the Legislature is deliberating bills of interest to the construction industry and a complete legislative report will be presented at the August 7th AGC NYS Board of Directors meeting.

[AGC NYS supports A.8832-A \(Magnarelli\) / S.5523-A \(Kennedy\)](#) which amends the vehicle and traffic law and the public officers law, in relation to establishing a demonstration program implementing speed violation monitoring systems in work zones by means of photo devices. **Comment: This bill was amended by the Senate and awaits an Assembly revision.**

[AGC NYS supports S.7885-A \(Kaplan\) / A.10090-A \(Thiele\)](#) which amends the transportation law, in relation to

requiring the New York State Department of Transportation (NYSDOT) to annually prepare and submit to the legislature certain highway pavement and bridge condition report. **Comment: This bill is expected to be passed by the Senate and remains in Assembly committee.**

[AGC NYS opposes S.8334 \(Mayer\) / A. 10626 \(Bronson\)](#) which amends section 224-a of the labor law as added by section 1 of part FFF of chapter 58 of the laws of 2020 to mandate the prevailing wage in the delivery and hauling of aggregate construction materials on covered projects. **Comment: This bill was opposed by multiple organizations including the GCA, Town and County Highway Superintendents, affordable housing groups, and others.**

## FEDERAL NEWS

### ***AGC NYS Town Halls Continue with Congressman Hakeem Jeffries on Friday, July 24 at 9:00 a.m.***

Join us for a Zoom meeting with Congressman Hakeem Jeffries for a report about the federal response to the COVID-19 pandemic and discussion about "Phase 4" of stimulus funding. [Register here.](#)

### ***Congress Returns to D.C. - Email Your Representative TODAY to Support AGC NYS Stimulus Plan***

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### ***New York Representative Chris Jacobs Sworn into Office***

Representative Chris Jacobs was sworn in as a Member of the United States House of Representatives by the House Speaker on July 21st, 2020. Congressman Jacobs represents the 27th District.

## ***Building News***

### ***AGC NYS Issues Letter to NYC DOB on the SWO Process***

*Positive Preliminary Response Received*

AGC NYS received a request from NYC DOB (Department of Buildings) to offer thoughts and recommendations about their SWO (Stop Work Order) process. Based on that request, we asked members of our NYC Committees (Membership and Safety) for their experiences, frustrations and recommendations relative to the SWO process. With those responses as well as the knowledge of our own staff, we authored the letter you can view by [clicking on this link](#). We received a quick reply from DOB where they noted appreciation for the helpful response. Importantly, one of the issues we had noted was the inordinate amount of time it takes to lift the SWO. In their response, DOB stated "While we review further I want to share in nearly all instances you should not be waiting on DOB for multiple weeks to get a SWO lifted. If the industry is not being responsive as it relates to the lift that's another matter. If a situation such as what you describe in the document arises, let me know so we can work on it. We are working on a new process to address many of these concerns that I hope to be able to share with you later this year."

Given that, if you are experiencing a delay in getting an SWO lifted – ***through no fault of your own*** – please let AGC NYS Staff know and we'll pass it along to DOB and see what can be done. With that said, it's important to emphasize the "through no fault of your own" part of this as we want to use this opportunity judiciously lest we wear out our welcome.

### ***Construction Employment Rises From May To June In 31 States, Slips In 18; Association Warns Job Losses Will Resume Without Federal Funding***

Construction employment increased from May to June in 31 states and the District of Columbia, but the gains may have stalled, according to an analysis by the Associated General Contractors of America of government

employment data released today and a compilation of weekly jobsite hours by construction technology firm Procore. Association officials urged officials in Washington to promptly enact funding for infrastructure projects and plug looming state and local budget deficits to head off a new round of job losses. [Read more here.](#)

### ***ABI May 2020: Architecture firms report steep decline in billings for third consecutive month***

Business conditions at architecture firms remained extremely poor for the third consecutive month in May. While the ABI score of 32.0 for the month was somewhat higher than the April score, it still indicates that the majority of firms saw their billings decrease yet again (any score below 50 indicates declining billings). Indicators of future work remained grim as well, and while a larger share of firms reported an increase in inquiries into new projects in May than in April, most firms still saw a decline. In addition, the value of new signed design contracts remained at a near record-low level, as firms indicated that clients are still extremely hesitant to sign on the dotted line for new work at this time. [Read more here.](#)

## ***Highway News***

***No new Engineering Issuances or Bulletins posted by NYSDOT between July 8 and July 22.***

### ***New York State Canal Corporation for a Virtual Open House***

The New York Power Authority (NYPA) and New York State Canal Corporation (Canals) held a Virtual Open House featuring a presentation regarding the current Reimagine the Canals initiative. [Please find a copy of the presentation here.](#)

### ***2020 NYS HMA Density Testing Inspector Certification Course***

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 VIRTUAL COURSE**

- August 10-11

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](mailto: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](mailto:ccet@alfredstate.edu) to get rescheduled into an online module.

## ***Safety News***

### ***NYS Minimum Wage Poster Revised***

The NYS minimum wage poster was revised to include information about tipped workers. This poster will be in effect from 6/30/20 to 12/31/20, at which point the poster will be revised again for 2021.

AGC NYS will update its popular Compliance Poster, and any new orders will have this update included.

For those who bought the 2020 Compliance Poster, we will have labels of the section made so that you can update existing jobsite postings. Please contact us to request the labels and we will send them ASAP.



### ***AGC NYS New York City FastFacts App Updated***

As the industry has settled down with the many rules and regulations relative to COVID-19 safety and work policies, we have updated our NYC FastFacts App to include all the pertinent information required to operate in compliance with NYS and NYC DOB Rules and Regulations.

For those companies already using the app, you will see a new section for COVID which will include links to the appropriate DOB service notices and other information.

If you are not currently using the app, now is a great time to take a test drive and see what the app includes - DOB, FDNY, an entire on-line copy of Chapter 33, plus important information from other city agencies. You can find more information at [agcnys.org/fastfacts](http://agcnys.org/fastfacts) or call AGC NYS Staff directly and we can give you more information.

### ***Inspection Guidelines for Enforcement of Respirable Crystalline Silica Standard Issued by OSHA***

OSHA's Directive covering the Inspection procedures for the Respirable Crystalline Silica Standards was recently issued and outlines how the standard is to be enforced. This document provides employers with insight as to the procedural and enforcement guidelines that compliance officers will follow when an inspection occurs. The document also includes a compliance checklist that will be utilized by an inspector during the inspection process. This information is valuable for employers that perform activities where this regulation is applicable. A number of items to highlight include the following:

Inspectors are to conduct and collect personal breathing zone samples during their initial inspection. In the past, typically an industrial hygienist would visit the site to conduct the sampling. The guidelines instruct them to be done on the first day of the inspection. In the event that no silica-generating work is being performed during the inspection, the inspector is expected to inquire when such work will resume that generates silica dust so sampling can be done on a later date.

Inspectors are instructed to ask for an employer's documentation regarding crystalline silica including the following:

- Employer's written exposure control plan developed for operations to be performed.
- Exposure records; including air monitoring results as well as data the employer used to assess exposures to determine what exposure levels might be expected while performing an operation.
- Laboratory analytical results associated with an operation performed.

The enforcement document cites that if an employer is not adhering to specified controls outlined in Table 1 of the standard, or perform a task using equipment not listed in Table 1, the employer will be considered to be out of compliance, unless the employer can demonstrate they are in compliance with the permissible exposure limit (PEL). For those employers that are following all requirements set forth in Table 1 are considered to be compliant with the Silica Standard and the collection of personal air samples is not required.

[The complete document can be accessed here.](#) As always, do not hesitate to reach out to AGC NYS if we can be of assistance. We are here to help and welcome your calls.