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Most Non-Essential Construction Must Shut Down, Penalties for Non-Compliance With Social Distance and Safety Practices at Essential or Emergency Non-Essential Sites Will Be Imposed

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Earlier today, Friday, March 27, 2020, Governor Cuomo updated the guidelines for "essential businesses" which must continue operations (subject to certain limitations) pursuant to Executive Order 202.6.

Essential construction is now defined to include "roads, bridges, transit facilities, utilities, hospitals or healthcare facilities, affordable housing and homeless shelters." All other construction is deemed non-essential and must shut down, with the limited exception of "emergency construction." Examples of emergency construction are "a project necessary to protect the health and safety of the occupants, or to continue a project if it would be unsafe to allow to remain undone until it is safe to shut the site."

All construction sites, whether essential construction or non-essential emergency construction as set forth above, which are continuing operations following the Governor's updated guidance must practice social distancing, including during use of elevators, at meals and during entry and exit. Sites that are permitted to continue operations must comply with social distancing guidelines or shut down if unable to comply. The State, together with city and local governments, will enforce these new guidelines, and violations will include fines of up to $10,000 per occurrence.

While the updated guidance by Governor Cuomo provides clarity as to what, exactly, constitutes "essential" construction, it will also greatly expand the number of construction companies impacted by the directive.

The full text of the updated guidelines can be found here: https://esd.ny.gov/guidance-executive-order-2026

If you have questions feel free to contact Elizabeth Usinger at (516) 357-3869 or via email at EUsinger@cullenllp.com.

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Attorneys

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