

FAQS ON THE GOVERNOR'S APRIL 29, 2020, MEMO ON CONSTRUCTION

What does the Governor's April 29, 2020, memo on construction do?

The memo generally allows any existing construction that was previously paused due to Proclamation 20-25, "Stay Home, Stay Healthy," to resume, if it is low-risk and can meet new health and safety standards that were created in consultation with state agencies and industry stakeholders.

What are some of the key definitions in the memo?

Previously authorized construction is construction activity that was permitted to continue operations under Proclamation 20-25 and subsequent guidance. Examples include the construction of medical offices and grocery stores, and construction needed to avoid damage or unsafe conditions.

Newly authorized construction is construction activity that:

- a) Was *in existence* prior to the issuance of Proclamation 20-25, "Stay Home, Stay Healthy," and
- b) Was not authorized under Proclamation 20-25 and subsequent guidance. This includes, for example, most residential construction like remodels, renovations, and speculative construction.

Existing construction (referenced above as "in existence") is construction that:

- a) Is needed to fulfill an obligation under a contract effective prior to March 23, 2020, or
- b) Is authorized by a government-issued permit obtained prior to March 23, 2020.

For purposes of this definition, contracts can include pre-leases, construction contracts, design contracts, sale contracts, etc.

When does this go into effect?

Previously authorized construction may continue operating, but must also comply with all Phase 1 requirements. All Phase 1 safety criteria must be in compliance by no later than May 1, 2020.

Newly authorized construction may begin immediately, if and only if the work follows all Phase 1 requirements. For newly authorized construction, only existing construction projects can resume.

What work is not permitted?

The Governor has declined to allow projects to begin that were not existing construction projects or previously authorized construction (as defined above) during Phase 1.

In what cases may tasks permit a worker to break six-foot distancing requirements?

Previously authorized construction (as defined above) also must comply with all Phase 1 requirements. In instances where six-foot distancing cannot be followed for a specific task or

tasks on previously authorized construction sites, the contractor must create and implement a hazard control and safety plan with mandated PPE.

Is landscape construction allowed?

For purposes of the April 24, 2020, construction memo, contracted landscape construction projects are treated identically to structural projects. Landscape construction includes the installation of greenery and hardscape but does not include routine outdoor maintenance like mowing and weeding by professionals.

Outdoor maintenance by a professional is still permitted if needed to prevent damage or spoliation.

Why is other landscape work treated differently?

The landscaping sector more broadly is under consideration for the next phases of reopening. Landscaping connected to construction projects may be necessary to complete current contracts, so is contemplated under the construction Phase 1 plan.

How are public works projects treated?

Public works projects are treated identically to other previously authorized projects.

Contractors working on contracts held by WSDOT or other Washington state agencies should connect with their agency leads for further instruction.

May we bring back office staff who support our construction firm?

Yes, the office staff of a construction firm may return to work. However, employees who can work remotely are encouraged to do so.

Proclamation 20-46, “High Risk Employees – Workers’ Rights,” still remains in effect and requires employers to use “all available options for alternative work assignments to protect high-risk employees.”

Why are some new construction projects not authorized to begin?

Phase 1 is intended to be an interim step. We are still encouraging the majority of Washingtonians to stay home and help reduce spread. Existing construction faces unique challenges due to contractual obligations and spoliation. Additional construction reopening is under consideration.