

ALERT

May 2020

New York State Says Your Phase One Business Can Re-Open...Now What?

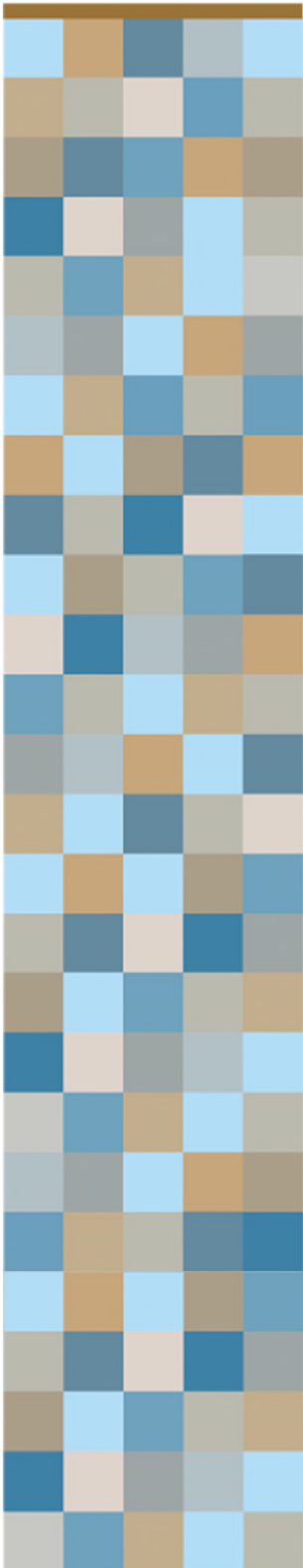
By: A. Jonathan Trafimow, Keith J. Frank & Helena A. Nagel

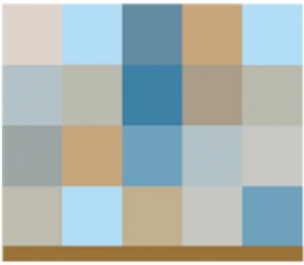
As we previously reported in our [May Employment Alert](#), New York State recently began to re-open non-essential businesses and business activities, through a region-specific, phased approach, following the COVID-19 State PAUSE (the “Re-Opening Plan”). Governor Andrew Cuomo’s Office issued certain mandatory guidelines, recommended practices and information concerning re-opening for each of the industries included in “Phase One” of the Re-Opening Plan (the “Re-Opening Guidance”). The Re-Opening Guidance applies to non-essential businesses in regions that are permitted to re-open as part of the Re-Opening Plan, and essential businesses throughout the state that were permitted to remain open during the State PAUSE.¹

The Re-Opening Guidance includes (1) Summary Guidelines, which provide both mandatory requirements and recommended practices, (2) Interim Guidance, which provides minimum requirements and (3) a Safety Plan Template, for each respective industry (or industry sub-category, where applicable). Links to the Re-Opening Guidance for each industry can be found in the chart below. The Re-Opening Guidance for each industry and sub-category is specific for that industry so a business must ensure that it follows the applicable guidance based on its respective industry.

The Re-Opening Guidance requires, among other things, that businesses develop a COVID-19 safety plan outlining the steps it will take to prevent the spread of COVID-19. The Safety Plan Templates provided in the Re-Opening Guidance can be used or businesses may develop their own safety plans. Businesses are not required to submit their safety plans to any state agency for approval but the plans must be retained and posted in a conspicuous location in the workplace, and must be made available to the New York State Department of Health or local health or safety authorities in the event of an inspection. Additionally, businesses must submit this [New York Forward Business Affirmation](#) to the State, affirming that

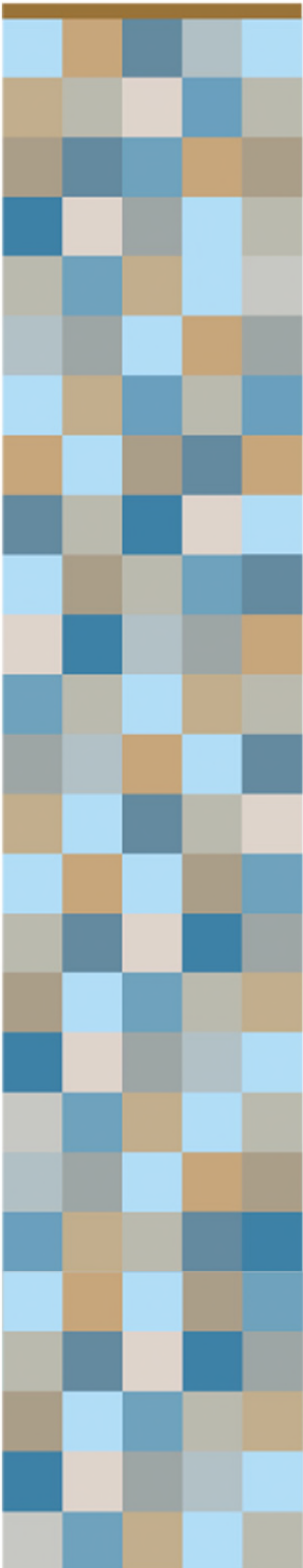
¹ If a business is unsure whether it is permitted to re-open pursuant to the Re-Opening Plan, it can use the State’s [Business Reopening Lookup Tool](#), which provides business-specific information regarding re-opening.





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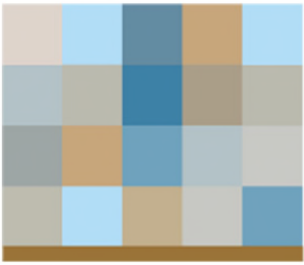
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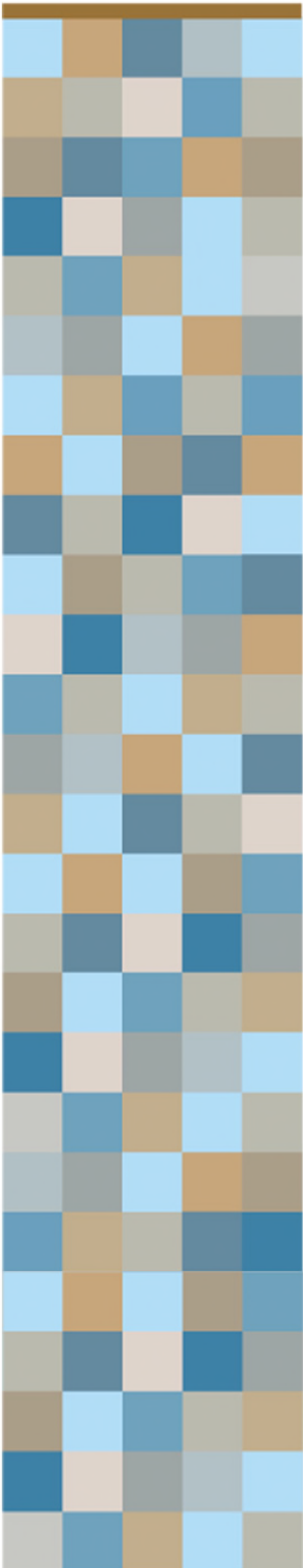
they have read and understand their obligations for operating in accordance with the Re-Opening Guidance.

The “Phase One” industries, the businesses and entities included in each respective industry, and the links to the Re-Opening Guidance are included in the following chart:

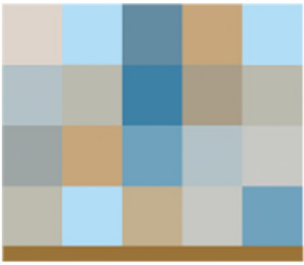
Industry	Businesses and Entities Included in Industry	Re-Opening Guidance
Construction	<ul style="list-style-type: none"> • Building Equipment Contractors • Building Finishing Contractors • Foundation, Structure, and Building Exterior Contractors • Highway, Street and Bridge Construction • Land Subdivision • Nonresidential Building Construction • Residential Building Construction • Utility System Construction 	<p><u>Summary Guidelines</u></p> <p><u>Interim Guidance</u></p> <p><u>Safety Plan Template</u></p> <p><u>New York Forward Business Affirmation</u></p>
Agriculture, Forestry, Fishing and Hunting	<ul style="list-style-type: none"> • Other Animal Production • Other Crop Production • Support Activities for Animal Production • Support Activities for Crop Production • Support Activities for Forestry 	<p>*Please note the sub-categories</p> <p><u>Non-Food Related Agriculture</u></p> <p><u>Summary Guidelines</u></p> <p><u>Interim Guidance</u></p> <p><u>Safety Plan Template</u></p> <p><u>New York Forward Business Affirmation</u></p>



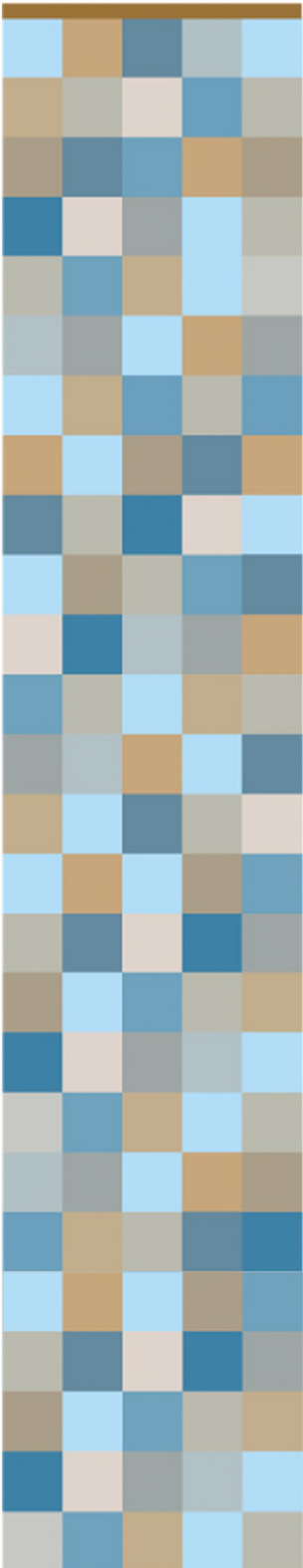
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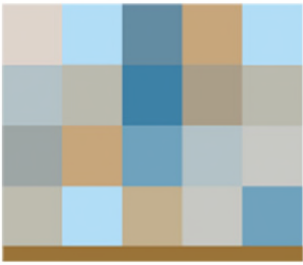
		<p><u>Forestry</u></p> <p><u>Summary Guidelines</u></p> <p><u>Interim Guidance</u></p> <p><u>Safety Plan Template</u></p> <p><u>New York Forward Business Affirmation</u></p> <p><u>Fishing</u></p> <p><u>Summary Guidelines</u></p> <p><u>Interim Guidance</u></p> <p><u>Safety Plan Template</u></p> <p><u>New York Forward Business Affirmation</u></p>
<p>Retail</p> <p>*Limited to curbside or in-store pickup or drop off</p>	<ul style="list-style-type: none"> • Clothing Stores • Direct Selling Establishments • Electronics and Appliance Stores • Electronic Shopping and Mail-Order Houses • Furniture and Home Furnishing Stores • Florists • General Merchandise Stores • Health and Personal Care Stores • Jewelry, Luggage, and Leather Goods 	<p><u>Summary Guidelines</u></p> <p><u>Interim Guidance</u></p> <p><u>Safety Plan Template</u></p> <p><u>New York Forward Business Affirmation</u></p>



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	<p>Stores</p> <ul style="list-style-type: none"> • Lawn and Garden Equipment and Supplies Stores • Office Supplies, Stationery, and Gift Stores • Used Merchandise Stores • Shoe Stores • Sporting Goods, Hobby, Musical Instrument and Book Stores • Other Miscellaneous Store Retailers 	<p><u>Affirmation</u></p>
Manufacturing	<ul style="list-style-type: none"> • Apparel Manufacturing • Computer and Electronic Product Manufacturing • Electric Lighting Equipment Manufacturing • Fabricated Metal Product Manufacturing • Furniture and Related Product Manufacturing • Leather and Allied Product Manufacturing • Machinery Manufacturing • Nonmetallic Mineral Product Manufacturing • Paper Manufacturing • Petroleum and Coal Products Manufacturing • Plastics and Rubber Products Manufacturing • Printing and Related Support Activities • Textile Mills • Textile Product Mills • Wood Product Manufacturing • Other Miscellaneous Manufacturing 	<p><u>Summary Guidelines</u></p> <p><u>Interim Guidance</u></p> <p><u>Safety Plan Template</u></p> <p><u>New York Forward Business Affirmation</u></p>
Wholesale Trade	<ul style="list-style-type: none"> • Apparel, Piece Goods, and Notions Merchant Wholesalers • Chemical and Allied Products Merchant Wholesalers • Furniture and Home Furnishing Merchant Wholesalers • Household Appliances and Electrical and Electronic Goods Merchant 	<p><u>Summary Guidelines</u></p> <p><u>Interim Guidance</u></p> <p><u>Safety Plan Template</u></p>



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Moritt Hock & Hamroff LLP is a broad based commercial law firm with more than 75 lawyers and a staff of patent agents and paralegals. The firm's practice areas include: business succession planning; commercial foreclosure; commercial lending & finance; construction; copyrights, trademarks & licensing; corporate & securities; creditors' rights & bankruptcy; cybersecurity; privacy & technology; dispute resolution; employment; healthcare; landlord & tenant; litigation; marketing, advertising & promotions; mergers, acquisitions & private equity; not-for-profit; patents; real estate; secured lending, equipment & transportation finance; tax; and trusts & estates.

A. Jonathan Trafimow is a Partner of the firm where he Co-Chairs its Employment Law Practice Group. Mr. Trafimow represents employers in all areas of discrimination, retaliation, harassments and civil rights claims, and class actions. He also routinely advises employers on compliance employment laws and regulations.

Keith J. Frank is a Partner of the firm where he Co-Chairs its Employment Law Practice Group. Mr. Frank handles all areas of litigation with an emphasis in labor & employment and insurance law.

Helena A. Nagel is an Associate with the firm where she concentrates her practice in all areas of labor and employment law.

	Wholesalers <ul style="list-style-type: none"> • Machinery, Equipment and Supplies Merchant Wholesalers • Metal and Mineral (except Petroleum) Merchant Wholesalers • Paper and Paper Product Merchant Wholesalers • Professional and Commercial Equipment and Supplies Merchant Wholesalers • Wholesale Electronic Markets and Agents and Brokers • Miscellaneous Durable Goods Merchant Wholesalers • Miscellaneous Nondurable Goods Merchant Wholesalers 	<u>New York Forward Business Affirmation</u>
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The links to the Re-Opening Guidance, provided in the above chart, can be found [here](#).

Although the Re-Opening Guidance released by the State applies only to “Phase One” industries, we anticipate that the State will release similar guidelines for the industries in Phases Two, Three and Four. Moritt Hock & Hamroff LLP’s Employment Team is prepared to assist businesses with developing safety plans and complying with the requirements set forth in the Re-Opening Guidance.

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