

# New York's Governor Outlines Plan to Re-Open Businesses

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In his daily press conference on April 26, 2020, New York Governor Andrew Cuomo [announced](#) a plan to re-open the state on a regional basis. As a threshold matter, the plan only allows a region to begin a phased re-opening once the hospitalization rate in that region has declined for at least 14 days. On April 28, the Governor provided [additional detail](#) about what would be required of businesses and regions in order for re-opening to begin. Below is a summary of what employers should know about the Governor's plan.

Within each region, businesses will re-open in phases on a business-by-business level. Phase One will include low risk construction and manufacturing functions. In Phase Two, other businesses will re-open, with priority given to those that are: (1) "more essential," and (2) present a lower risk of infection to employees and customers. As the rate of infection declines, the pace of re-opening will increase. The Plan calls for a two-week monitoring period between the start of each phase to ensure that hospitalization and infection rates remain stable.

Notably, the Governor indicated that, before re-opening, each business and industry must have a plan in place to protect employees and consumers, make the workplace safer, and implement processes that lower risk of infection. The Governor's office has not yet provided guidance regarding the specifics of these plans, nor has it announced whether employers will be required to submit these plans to the state, and if so, what review and approval process will ensue. However, the Governor did indicate that an advisory board of business leaders has been created to formulate plans, and that employers should be considering the following:

1. What steps to take to increase physical distance between employees and customers in the workplace (e.g., physical barriers, reducing shared work spaces);
2. Which screening measures and access restrictions to implement for employees and visitors (e.g., temperature checks, other testing, capacity and gathering size restrictions);

3. What personal protective equipment – such as gloves, gowns, and facemasks – are appropriate;
4. What measures can be implemented to protect “vulnerable” populations;
5. What training and communications to provide employees regarding disease transmission in the workplace; and
6. Additional cleaning and hygiene protocols.

The Governor’s plan includes one caveat – attractions and businesses that draw a large number of visitors from outside the local area will remain closed during this phased re-opening. The Governor has not indicated which businesses would be affected by this restriction or defined what will be considered a “large number of visitors.”

Rather than offering a specific timeline for re-opening, the Governor announced general criteria that will be considered on a regional basis. In addition to experiencing a 14-day decline in the hospitalization rate, the region must also:

1. Maintain adequate health care capacity (i.e., at least 30 percent of hospital beds and ICU beds available after elective surgeries resume);
2. Develop a system to trace individuals with confirmed COVID-19 and notify those with whom the infected individual had close contact that includes 30 contact tracers for every 100,000 people;
3. Implement a testing regimen that prioritizes essential workers and symptomatic individuals, advertises where and how people can get tested, and traces the spread of the virus; and
4. Institute a regional oversight institution, isolation facilities for those who test positive, and protections for essential workers.

The Governor’s plan also calls on regions to coordinate the re-opening of schools, transportation systems, as well as testing and tracing, with surrounding regions, which in the Governor’s plan include: the Capital Region, Central New York, Finger Lakes, Mid-Hudson Valley, Mohawk Valley, New York City, North Country, Long Island, Southern Tier, and Western New York.

So when do employers need to start preparing? As soon as possible. Non-essential businesses in the state have been closed since March 22, and the Governor's current [Executive Order](#) is set to expire on May 15 (though is likely to be extended in certain regions). According to the Governor, some upstate regions may enter Phase One - in which low-risk manufacturing and construction would resume - as soon as mid-May. Our team is closely monitoring these orders and the Governor's re-opening plan, and will continue to provide updates as they become available.

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