

Midwest States Allow Resumption of Some Construction Projects

As an update to our previous alert on certain Midwest states, Minnesota, Illinois, Ohio, Indiana, Michigan, and Wisconsin have issued orders recently affecting whether certain businesses, including construction, may resume operations. As has been the case throughout the COVID-19 pandemic, changes are happening quickly. Businesses are advised to check regularly for updates and to seek legal advice when appropriate.

Minnesota

Governor Tim Walz signed Emergency Executive Order 20-48 on April 30, 2020, extending the statewide stay-at-home order until May 18. The prior order was otherwise set to expire on May 4. Order 20-48, which goes into effect on May 4, contains more flexibility for nonessential businesses in the form of curbside pick-ups for retail or other customer-facing businesses. The order mostly does not directly affect critical sector construction operators who were continuing to operate with social distancing and sanitation procedures in place. However, Order 20-48 does specifically exempt workers who construct, maintain, and repair decks and fences, and also exempts workers who maintain the exterior of residential dwellings. A full list of modifications to the stay-at-home order that were included in Order 20-48 can be accessed [here](#).

Illinois

COVID-19 Executive Order 20-32 goes into effect on May 1, 2020. This order extends and modifies the current stay-at-home order, which expired on April 30, through May 29. The main modification in the new order is a requirement that people aged two years or older must wear a face mask in public where social distancing cannot be maintained. This order does not directly affect construction, and construction operations may continue as it was under the prior stay-at-home order.

Ohio

Late on April 30, 2020, under the direction of Governor Mike DeWine, Ohio Department of Health Director Amy Acton, M.D., MPH issued an extended stay-at-home order titled "Stay Safe Ohio," extending the stay-at-home protocol, with exceptions, until May 29. According to the new order, which provides for Ohio's reopening plan, the closed (nonessential) manufacturing, distribution, and construction businesses that were ordered to cease all operations pursuant to the April 2, 2020, Amended Director of Health Order may reopen on May 4 with mandatory safety requirements. Offices may also reopen on May 4. Retail businesses may reopen May 12. Further information regarding Ohio's Responsible Restart Plan may be accessed [here](#).

Indiana

Indiana's second extension of its stay-at-home order, Executive Order 20-22, expired at midnight on May 1, 2020. The same day, Governor Holcomb announced a five stage reopening plan titled Back on Track Indiana. The first stage of the plan included the time period of March 23, 2020 – May 4, 2020, where most of Indiana was ordered to shelter in place due to COVID-19. The second stage, which begins for most of Indiana on May 4 (more populous counties may be delayed by one or two weeks), lifts many restrictions of the stay-at-home order. In Stage 2, manufacturers, industrial operations, and other infrastructure that has not been in operation may open following OSHA and CDC guidelines. Retail and commercial businesses, including those that have been open for the necessities of life during previous executive orders, may operate at 50 percent capacity. Further, those who work in office settings are encouraged to continue to work remotely



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whenever possible, but may return to offices in small waves. A week after the beginning of Stage 2, bars and restaurants may open with limited capacity and required face coverings. The same week, personal services including barbers, nail salons, and spas may reopening with required face coverings.

To the extent any construction was limited by the prior executive orders in Stage 1, construction may return to safe operations, subject to IOSHA and CDC guidelines including: daily employee screenings, face coverings, and industry best practices policies. More information is available [here](#).

Michigan

On April 24, 2020, Governor Whitmer issued [Executive Order 2020-59](#), which extended the stay-at-home order in its entirety through May 15, 2020. The order immediately replaced the prior Order 2020-42, which was set to expire on May 1. The new order requires employers to provide masks to workers. Further, the order allows landscapers, lawn service companies, and bike repair shops to resume operations, subject to social distancing rules.

Additionally, on May 1, Governor Whitmer signed [Executive Order 2020-70](#), which will allow workers in low-risk industries to resume operations beginning at 12:01 a.m. on May 7, 2020. This order operates to relieve restrictions on the construction industry and enables residential and commercial construction operations to resume in Michigan. The order requires construction companies and operations to develop best practices to protect their workers from infection. This includes, among other things: (1) designating a site supervisor to enforce COVID-19 strategies; (2) conducting daily health screenings; (3) creating dedicated entry points to ensure employees are screened every day; (4) identifying high-traffic areas like hallways and controlling them to enable social distancing; (5) requiring face-coverings where social distancing cannot be maintained; (6) ensuring sufficient hand-washing or sanitizing stations at the worksite; (7) restricting unnecessary movement between worksites; and (8) notifying others where a contractor or employee has a confirmed case of COVID-19. For more complete information regarding required guidelines and best practices, please read [Order 2020-70](#) section 11(h).

Wisconsin

On April 16, 2020, Secretary designee Palm issued [Emergency Order #28](#), which extended Governor Evers' Safer at Home order until 8 a.m. on Tuesday, May 26, 2020. Emergency Order #28 went into effect on April 24. Emergency Order #28 loosened some restrictions, including allowing expanded Minimum Basic Operations for nonessential businesses such as curbside pickup or deliveries. Further, aesthetic or optional exterior lawn care or construction is allowed under the new order, so long as it can be done by one person.
