

COVID-19 Update

Presented by
The Franklin Partnership, LLC
Policy Resolution Group at Bracewell
June 26, 2020



Your Team in Washington, D.C.



Lobbying Firm – The Franklin Partnership, LLC

- Bi-partisan Washington, D.C.-based government relations firm
- Representing manufacturing industry since 2002
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- Wash, D.C.-based public affairs & strategic communications consultants
- Promote NTMA and PMA in print, digital and other media
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- Representing metalworking industry since 2003

Nothing contained in here shall be deemed legal advice.

More Resources: www.onevoiceinfo.org

ONE VOICE COVID-19 RAPID RESPONSE WEBSITE

EMAIL:
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Agenda

- CDC Manufacturing Presentation
- Main Street Lending Facility Began June 15
- EIDL Program Reopened for all businesses June 15
- PPP Forgiveness Loans
- PPP Status
- COVID-19 Legislation
- Questions

All information presented as of June 25, 2020

CDC June 8 Stakeholder Presentation – Business & Mfg

Guidance for Manufacturing Workers & Employers

Covered topics include:

- Exposure risk among manufacturing workers
- Create a COVID-19 assessment and control plan
- Controls to prevent infection
- Educate and train workers and supervisors about how they can reduce the spread of COVID-19
- Cleaning and disinfection
- Screening & monitoring workers
- Personal protective equipment
- Workers' rights

See 19:00 minute mark
for manufacturing
discussion



https://www.youtube.com/watch?v=Yd9uSrKUYoM&feature=emb_title

OSHA Issues Non-Essential Return to Work Guide (June 18)

- **Phase 1:** Businesses should consider making telework available, when possible and feasible with business operations. For employees who return to the workplace, consider limiting the number of people in the workplace in order to maintain strict social distancing practices. Where feasible, accommodations (i.e., flexibilities based on individual needs) should be considered for **workers at higher risk of severe illness**, including elderly individuals and those with serious underlying health conditions. Businesses should also consider extending special accommodations to workers with household members at higher risk of severe illness. Non-essential business travel should be limited.
- **Phase 2:** Businesses continue to make telework available where possible, but non-essential business travel can resume. Limitations on the number of people in the workplace can be eased, but continue to maintain moderate to strict social distancing practices, depending on the type of business. Continue to accommodate vulnerable workers as identified above in Phase 1.
- **Phase 3:** Businesses resume unrestricted staffing of work sites.

Training, including practices for ensuring employees receive training on the signs, symptoms, and risk factors associated with COVID-19; where, how, and to what sources of SARS-CoV-2 employees might be exposed in the workplace; and how to prevent the spread of SARS-CoV-2 at work.

- Train workers in the appropriate language and literacy level about their risks of exposure to SARS-CoV-2, what the employer is doing to protect them, including site-specific measures, and how they can protect themselves.
- Train workers about wearing **cloth face coverings in the workplace**, including any employer policies related to their use and considerations for when cloth face coverings could cause or contribute to a workplace safety and health hazard.
- As required by OSHA standards for **PPE**, including **respiratory protection**, and consistent with **OSHA** and **CDC** guidance, train workers how to put on, use, and take off PPE; how to clean, maintain, store, and dispose of PPE; and what the limitations of the PPE are. (Note: As described above, **cloth face coverings are not PPE**, because they protect other people from the wearer's respiratory secretions, rather than protecting the wearer).

OSHA Enforcing Expanded Paid Sick Leave

Agency: Wage and Hour Division

Date: June 18, 2020

News Release

FLORIDA MANUFACTURER PAYS BACK WAGES TO EMPLOYEE DENIED PAID SICK LEAVE REQUIRED UNDER FAMILIES FIRST CORONAVIRUS RESPONSE ACT

SANFORD, FL – After an investigation by the U.S. Department of Labor’s Wage and Hour Division (WHD), Producto Lure Co, Inc. – based in Sanford, Florida – has paid an employee two weeks of emergency paid sick for violating the Emergency Paid Sick Leave Act (EPSLA) provisions of the [Families First Coronavirus Response Act \(FFCRA\)](#). **Date:** June 18, 2020

WHD found the manufacturer and distributor of fishing products failed to pay for two weeks spent out of work after a doctor instructed the employee to self-quarantine for the coronavirus, a qualifying reason for paid sick leave under the EPSLA. The employer also failed to provide the employee’s paycheck for work performed prior to the protected leave, a violation of the Fair Labor Standards Act (FLSA).

“This case demonstrates our commitment to protecting employee rights and educating employers during this challenging time,” said Wage and Hour Division District Director Kenneth Stripling, in Birmingham, Alabama. “We encourage all employers and employees to call us for assistance to better understand the Families First Coronavirus Response Act’s new requirements to

<https://www.dol.gov/newsroom/releases/whd/whd20200618>

EEOC: Cannot Require Antibody Tests for Employees

A.7. CDC said in its [Interim Guidelines](#) that antibody test results “should not be used to make decisions about returning persons to the workplace.” In light of this CDC guidance, under the ADA may an employer require antibody testing before permitting employees to re-enter the workplace? (6/17/20)

No. An antibody test constitutes a medical examination under the ADA. In light of CDC’s [Interim Guidelines](#) that antibody test results “should not be used to make decisions about returning persons to the workplace,” an antibody test at this time does not meet the ADA’s “job related and consistent with business necessity” standard for medical examinations or inquiries for current employees. Therefore, requiring antibody testing before allowing employees to re-enter the workplace is not allowed under the ADA. Please note that an antibody test is different from a test to determine if someone has an active case of COVID-19 (i.e., a viral test). The EEOC has already stated that COVID-19 viral tests are [permissible under the ADA](#).

The EEOC will continue to closely monitor CDC’s recommendations, and could update this discussion in response to changes in CDC’s recommendations.

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

Main Street Lending Facility Began June 15

Current Status

The [Main Street lender portal](#) is now open for lender registration. Lenders can begin making Main Street loans immediately – given the program’s intent to purchase 95% of each eligible loan submitted, as long as documentation is complete and the transactions are consistent with program requirements, found in published [term sheets](#). Federal Reserve purchases of loan participations will commence when full program operations open. [Subscribe for updates on the latest information related to the Main Street Lending Program.](#)

Accessing the Program

Small and medium-sized businesses interested in the program should speak to an eligible lender about applying for program loans.

Program Administration

The Federal Reserve’s Main Street Lending Program will be administered by the Federal Reserve Bank of Boston, which will establish the Main Street SPV to purchase loan participations from eligible lenders in any of the twelve Federal Reserve districts. Further detail regarding operational arrangements will be made available in the future.

Inquiries

General inquiries can be directed to MSLP@bos.frb.org (Not for document submission).

Contact your lender directly to see if they are participating

MSLF: If Refinancing Debt, Don't Count it as Existing Debt

C.6. If an Eligible Borrower is using an MSPLF Loan to refinance debt it owes to a different lender, should that debt be counted in its calculation of “existing outstanding and undrawn available debt”?

No. The outstanding debt of the Eligible Borrower that is being refinanced by an MSPLF Loan should not be included in the calculation of the Eligible Borrower’s “existing outstanding and undrawn available debt.” To the extent that such outstanding debt is only being partially refinanced by the Main Street loan, only the portion that is being refinanced may be excluded from the “existing outstanding and undrawn available debt” calculation. The Eligible Borrower must ensure that all such excluded debt is fully refinanced by the Main Street loan expeditiously.

<https://www.bostonfed.org/mslp-faqs>

EIDL Program Back Open June 15

SBA Disaster Assistance Update Nationwide EIDL Loans / COVID-19

June 21, 2020

Loans Approved	1,775,539	Dollars Approved	\$113,307,061,331
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Notice: Now Accepting New Applications for Economic Injury Disaster Loans and Advance

In response to the Coronavirus (COVID-19) pandemic, small business owners in all U.S. states, Washington D.C., and territories are able to apply for an Economic Injury Disaster Loan advance of up to \$10,000. This advance is designed to provide economic relief to businesses that are currently experiencing a temporary loss of revenue. This loan advance will not have to be repaid. Recipients do not have to be approved for a loan in order to receive the advance, but the amount of the loan advance will be deducted from total loan eligibility. **SBA will begin accepting new Economic Injury Disaster Loan (EIDL) and EIDL Advance applications on June 15 to qualified small businesses and U.S. agricultural businesses.**

The new eligibility for U.S. agricultural businesses is made possible as a result of the latest round of funds appropriated by Congress in response to the COVID-19 pandemic.

Applicants who have already submitted their applications will continue to be processed on a first-come, first-served basis. For agricultural businesses that submitted an EIDL application through the streamlined application portal prior to the legislative change, SBA will process these applications without the need for re-applying.

Eligibility

On June 15, SBA will begin accepting new Economic Injury Disaster Loan (EIDL) and EIDL Advance applications from qualified small businesses and U.S. agricultural businesses.

Small business owners and qualified agricultural businesses in all U.S. states and territories are currently eligible to apply for a low-interest loan due to Coronavirus (COVID-19).

Agricultural businesses are now eligible as a result of the latest round of funds appropriated by Congress in response to the COVID-19 pandemic.

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loan-emergency-advance>

PPP Loan Status Update

Loan Count	Net Dollars	Lender Count
4,666,560	\$514,939,789,916	5,456

NAICS Sector Description	Loan Count	Net Dollars	% of Amount
Health Care and Social Assistance	487,386	\$66,582,598,125	12.93%
Professional, Scientific, and Technical Services	608,025	\$65,620,738,481	12.74%
Construction	446,670	\$63,921,963,658	12.41%
Manufacturing	223,452	\$53,620,614,368	10.41%
Accommodation and Food Services	354,085	\$41,498,140,735	8.06%
Retail Trade	432,933	\$39,907,699,244	7.75%
Other Services (except Public Administration)	498,756	\$30,513,851,152	5.93%
Wholesale Trade	161,883	\$27,514,653,734	5.34%
Administrative and Support and Waste Management and Remediation Services	230,321	\$26,167,415,058	5.08%
Transportation and Warehousing	171,051	\$16,605,493,181	3.22%
Real Estate and Rental and Leasing	232,660	\$15,329,408,006	2.98%
Finance and Insurance	161,053	\$12,034,233,705	2.34%
Educational Services	76,832	\$11,828,903,631	2.30%
Unclassified Establishments	222,226	\$9,916,122,340	1.93%
Information	65,837	\$9,134,891,250	1.77%
Arts, Entertainment, and Recreation	110,809	\$7,800,534,098	1.51%
Agriculture, Forestry, Fishing and Hunting	132,564	\$7,726,040,628	1.50%
Mining	20,990	\$4,472,952,752	0.87%
Public Administration	12,835	\$1,714,610,439	0.33%
Management of Companies and Enterprises	8,571	\$1,569,618,147	0.30%
Utilities	7,621	\$1,459,307,183	0.28%

PPP Loan Status Update

Amount of Funding Remaining

\$128,355,981,685

The above number is an approximation. SBA is currently revising remaining funds amount with the enactment of the Paycheck Protection Program Flexibility Act of 2020. Available funds captures approvals net of cancellations as well as loan increases, decreases, and reinstatements. This approximation accounts for statutory program costs.

REMINDER DEADLINE TO APPLY FOR PPP

SBA cannot approve any loans after 11:59 PM Eastern Tuesday, June 30, 2020

Contact your lender now if you have not applied

PPP Forgiveness Forms Released – Forms 3508 & EZ

[Loan Forgiveness Application Form EZ Instructions](#)

[Loan Forgiveness Application Form EZ](#)

[Loan Forgiveness Application Instructions](#) (revised 6/16/2020)

[Loan Forgiveness Application](#) (revised 6/16/2020)

<https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

PPP Forgiveness – Which Form to Use? 3508 or EZ

A Borrower may use the 3508EZ if they:

Test 1: Self-employed with no employees; or

Test 2: No FTE Reduction; No Salary, Wages Reduced by 25% More AND Unable to Rehire

Did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period compared to between January 1, 2020 and March 31, 2020 and did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period; AND
Borrower may ignore reductions that arose from an inability to rehire the individuals or was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020; borrower may also ignore reductions in an employee's hours that the Borrower offered to restore and the employee refused; or

Test 3: No FTE Reduction; No Salary, Wages Reduced by 25% More AND Business Activity Down

Did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period compared to between January 1, 2020 and March 31, 2020 and did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period; AND
Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

PPP Forgiveness Forms Released – Form 3508EZ

SBA PPP Loan Number: Lender PPP Loan Number:

PPP Loan Amount: PPP Loan Disbursement Date:

Employees at Time of Loan Application: Employees at Time of Forgiveness Application:

EIDL Advance Amount: EIDL Application Number:

Payroll Schedule: The frequency with which payroll is paid to employees is:

☐ Weekly ☐ Biweekly (every other week) ☐ Twice a month ☐ Monthly ☐ Other

Covered Period: to

Alternative Payroll Covered Period, if applicable: to

If Borrower (together with affiliates, if applicable) received PPP loans in excess of \$2 million, check here: ☐

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs:

Line 2. Business Mortgage Interest Payments:

Line 3. Business Rent or Lease Payments:

Line 4. Business Utility Payments:

Potential Forgiveness Amounts

Line 5. Add the amounts on lines 1, 2, 3, and 4:

Line 6. PPP Loan Amount:

Line 7. Payroll Cost 60% Requirement (divide Line 1 by 0.60):

Forgiveness Amount

Line 8. Forgiveness Amount (enter the smallest of Lines 5, 6, and 7):

PPP Forgiveness Forms Released – Form 3508

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10):

Line 2. Business Mortgage Interest Payments:

Line 3. Business Rent or Lease Payments:

Line 4. Business Utility Payments:

Adjustments for Full-Time Equivalency (FTE) and Salary/Hourly Wage Reductions

Line 5. Total Salary/Hourly Wage Reduction (enter the amount from PPP Schedule A, line 3):

Line 6. Add the amounts on lines 1, 2, 3, and 4, then subtract the amount entered in line 5:

Line 7. FTE Reduction Quotient (enter the number from PPP Schedule A, line 13):

Potential Forgiveness Amounts

Line 8. Modified Total (multiply line 6 by line 7):

Line 9. PPP Loan Amount:

Line 10. Payroll Cost 60% Requirement (divide line 1 by 0.60):

Forgiveness Amount

Line 11. Forgiveness Amount (enter the smallest of lines 8, 9, and 10):

Main difference
on forms is for
reductions

PPP Forgiveness Form Safe Harbor – FTE Return Date

FTE Reduction Safe Harbor 2:

- Step 1. Enter the borrower's total average FTE between February 15, 2020 and April 26, 2020. Follow the same method that was used to calculate Average FTE in the PPP Schedule A Worksheet Tables. Sum across all employees and enter: .
- Step 2. Enter the borrower's total FTE in the Borrower's pay period inclusive of February 15, 2020. Follow the same method that was used in step 1: .
- Step 3. If the entry for step 2 is greater than step 1, proceed to step 4. Otherwise, FTE Reduction Safe Harbor 2 is not applicable and the Borrower must complete line 13 of PPP Schedule A by dividing line 12 by line 11 of that schedule.
- Step 4. Enter the borrower's total FTE as of the earlier of December 31, 2020, and the date this application is submitted: .
- Step 5. If the entry for step 4 is greater than or equal to step 2, enter 1.0 on line 13 of PPP Schedule A; the FTE Reduction Safe Harbor 2 has been satisfied. Otherwise, FTE Reduction Safe Harbor 2 does not apply and the Borrower must complete line 13 of PPP Schedule A by dividing line 12 by line 11 of that schedule.

Must return FTE count to reference period level at time submitting application for full forgiveness

If had a wage reduction at the end of the 24 week term they will lower your forgiveness.

PPP Forgiveness Rule Safe Harbor – Wage Reduction

Example: A borrower is using a 24-week covered period. This borrower reduced a full-time employee's weekly salary from \$1,000 per week during the reference period to \$700 per week during the covered period. The employee continued to work on a full-time basis during the covered period, with an FTE of 1.0. In this case, the first \$250 (25 percent of \$1,000) is exempted from the loan forgiveness reduction. The borrower seeking forgiveness would list \$1,200 as the salary/hourly wage reduction for that employee (the extra \$50 weekly reduction multiplied by 24 weeks). If the borrower applies for forgiveness before the end of the covered period, it must account for the salary reduction for the full 24-week covered period (totaling \$1,200).

Example: A borrower that received a PPP loan before June 5, 2020 has elected to use an eight-week covered period. This borrower reduced a full-time employee's weekly salary from \$1,000 per week during the reference period to \$700 per week during the covered period. The employee continued to work on a full-time basis during the covered period, with an FTE of 1.0. In this case, the first \$250 (25 percent of \$1,000) is exempted from the loan forgiveness reduction. The borrower seeking forgiveness would list \$400 as the salary/hourly wage reduction for that employee (the extra \$50 weekly reduction multiplied by eight weeks).

If elect 24 weeks and have a wage reduction, you must deduct from the eligible forgiveness amount the wage reduction across 24 weeks even if you filed for forgiveness at 16 weeks

PPP Forgiveness – Owner Employee Compensation

- Borrowers may elect the 8-week or 24-week covered period, loans originating on or after June 5 are on a 24-week term.
- Employees are capped at \$15,385 for eight weeks; \$46,154 for 24 weeks.
- Owner compensation is capped at \$15,385 for eight weeks or 8 weeks of 2019 compensation, whichever is less. In the case of a 24-week period, owner compensation is the lower of \$20,833 or the two-and-half-month equivalent of the owner's applicable compensation in 2019 for the 24-week period.
- S-corporation owners cannot include health insurance costs when calculating payroll costs; however, employer retirement contributions are considered eligible costs.
- C-corporation owner-employees may include employer retirement and health insurance contributions

PPP Loan Recipient Disclosure for over \$150k loans

- The Small Business Administration (SBA) and Treasury Department reached an agreement with the Senate Small Business Committee to make public info
- SBA will publish the business names, addresses, NAICS codes, zip codes, business type, demographic data if available, jobs supported
- Will disclose company loan amount in ranges:
 - \$150,000 to \$350,000
 - \$350,000 to \$1 million
 - \$1 million to \$2 million
 - \$2 million to \$5 million
 - \$5 million to \$10 million
- For loans below \$150,000, SBA will release totals aggregated by zip code, by industry, by business type, and by various demographic categories but not names.
- The PPP loan application notified borrowers that SBA will automatically release information on the program including names of recipients.

PPP on Capitol Hill: Changes in Law Secured

Recommendations to Update PPP Loan Program Signed into Law

1. Expand 8 weeks to 16 for loan forgiveness period ✓
2. Extend the June 30 deadline to rehire employees under forgiveness ✓
3. Allow the deductibility of wages, rent, utilities as expenses under IRC 265
4. Reduce 75% minimum requirement to spend on payroll costs ✓
5. Extend loan terms beyond the two years as intended by Congress ✓
6. Permit PPP recipients to claim Employee Retention Credit
7. Make 501(c)(6) non-profit trade associations eligible for PPP loans
8. Allow PPP recipients to defer payroll taxes ✓

Next Steps on COVID Legislation

- What to do about remaining PPP funds not disbursed?
- Increased support for industry and demographic targeted loans
- Prioritized Paycheck Protection Program (P4) Act Introduced in Senate is an option
 - Provides eligible small businesses with up to 250% of monthly payroll costs up to \$2 million;
 - Prevents affiliated businesses with separate locations from receiving more than \$2 million in aggregate P4 loans; and
 - Allows P4 recipients to apply for forgiveness of their loans 8 weeks after the loans have been disbursed.
- Momentum increasing for expanding Employee Retention Credit
- Sen. Cornyn (R-TX) will not introduce liability protection legislation until mid-July
- Legislation expected to move at the end of July



News from the Coalition of American Metal Manufacturers and Users

For Immediate Release
June 26, 2020

Contact: Maya Bogle, 202-828-1727
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U.S. Metal Manufacturers to President Trump: No New Aluminum Tariffs on Canada

The Coalition of American Metal Manufacturers and Users (CAMMU) issued the following statement:

“The Coalition of American Metal Manufacturers and Users strongly urges President Trump to refrain from re-imposing Section 232 tariffs on aluminum imports from Canada. Tariffs are taxes (www.tariffstaxes.org), and the last thing that U.S. manufacturers need is for the government to tax an important input like aluminum while these companies are dealing with unprecedented challenges resulting from the COVID-19 pandemic. Manufacturing is the backbone of the U.S. economy, and raising costs on aluminum-using manufacturers will result in lost jobs and a slower recovery. Imposition of quotas on imports of aluminum from Canada would have similar negative consequences for U.S. manufacturers, increasing prices and disrupting supplies.

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NTMA's Government Affairs Administrative Fund (GAAF) allows the association to undertake initiatives aimed at educating elected officials on tooling and machining and the industry's priority issues. It also permits us to support a variety of activities to inform and mobilize our members, as well as to protect and promote the industry with key lawmakers. You can use corporate OR personal funds to donate to the GAAF.

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<https://ntma.org/programs/advocacy/>

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PMA's Advocacy Fund supports the association's day-to-day lobbying and public relations efforts in Washington, D.C., increasing the industry's visibility in Congress, the Administration and the public. You can use corporate OR personal funds to donate to the advocacy fund.

Donate Today!

<https://www.pma.org/advocacy/donate-today.asp>

Next One Voice COVID-19 Webinar:
Friday, July 17, 2020
12:00 PM Eastern



Questions?

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