

COVID-19 Update

Presented by
The Franklin Partnership, LLC
Policy Resolution Group at Bracewell
May 1, 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
- Clients include: manufacturing associations, defense contractors, hospitals, cities



Strategic Communications Firm – Policy Resolution Group at Bracewell

- Wash, D.C.-based public affairs & strategic communications consultants
- Promote NTMA and PMA in print, digital and other media
- Support Franklin Partnership government relations efforts by designing and implementing coordinated strategic communications strategy
- Representing metalworking industry since 2003

Nothing contained in here shall be deemed legal advice.

Agenda

- State Reopening Guides on www.onevoiceinfo.org
- Guidance, Forms Still not Available
- OSHA Updates
- CDC Screening, Disinfection Guidance
- Economic Injury Disaster Loan
- Main Street Lending Facility loan program
- PPP Loan update
- Next Steps on CARES 2
- Questions

All information presented as of April 30, 2020

State Re-Opening Guide Posted: onevoiceinfo.org

State-by-State Reopening

The following is a compilation of state actions regarding reopening businesses within the state. With stay-at-home or business closure orders set to expire in the coming days, governors are weighing whether to extend those orders or release plans to either lift or not renew the orders and allow for the limited reopening of businesses.

This resource will be updated as those plans are released.

Nothing contained herein shall be construed as legal advice and each entity should consult local and state laws as well as their own stakeholders, including legal counsel, before making a determination on business operations.

[Alabama](#)
[Arizona](#)
[California](#)
[Colorado](#)
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[Delaware](#)
[Florida](#)
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[Idaho](#)
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State Re-Opening Guide Posted: www.onevoiceinfo.org

MINNESOTA

Stay at Home order ends: May 4, 2020

On April 24, Gov. Walz issued an updated [order](#) to allow some non-essential businesses to resume operations, including manufacturers in the state who might not have previously fallen into the “critical manufacturing” definition previously put forth by the state. Businesses that intend to reopen must implement a Preparedness Plan covering how the company will keep sick employees at home, promote telework, enforce social distancing, support hygiene and approach disinfection if necessary.

According to the order, senior management responsible for implementing these plans must sign and certify their company’s plan and share it to company employees. A template plan is available [here](#).

OHIO

Stay at Home order ends: May 1, 2020

On April 27, Gov. DeWine rolled out the [Responsible Restart Ohio Plan](#) to implement the reopening the following sectors: Consumer Retail & Services; General Office Environments; and Manufacturing, Distribution & Construction. Information on Manufacturing, Distribution & Construction sector can be found [here](#), which includes requirements for manufacturers including 6-foot social distances or barriers in between employees, mandatory wearing of face coverings, and employee-driven health assessments. Note: The stay at home [order](#) will remain in place, prohibiting gatherings of more than 10 people.

Guidance, Programs, Forms Still Not Available

- Main Street Lending Fund start date for loans for up to 10,000 employees
 - Fed did release new Term Sheet
- PPP loan guidance on forgiveness process, terms
- SBA \$2 million loan audit process
- Updated 941 IRS Quarterly Form

April 30, 2020

LABOR & EMPLOYMENT WEBINAR HAVE QUESTIONS? GET ANSWERS!

April 30, 2020

BRACEWELL

Should an employer conduct temperature checks and, if so, what should be done with the results?



Caroline Melo

BRACEWELL

If an employee simply does not feel comfortable returning to the office, can the employer force the employee to use PTO?



Amber Dodds

BRACEWELL

Does the employer need to provide masks at the employer's own expense?



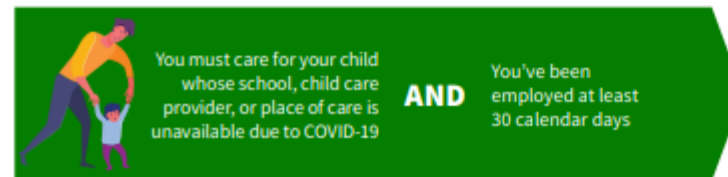
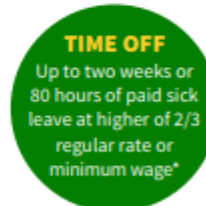
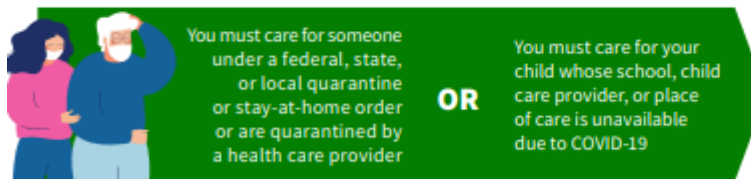
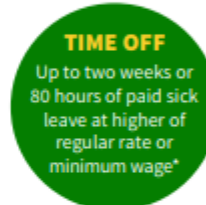
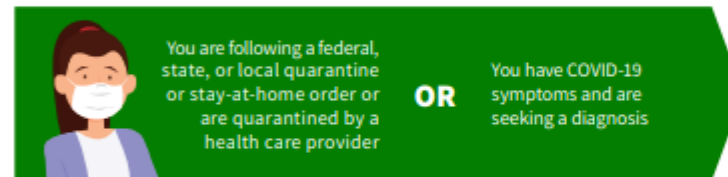
Bob Nichols

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Dept. of Labor FFCRA Time Off Poster



<https://www.dol.gov/sites/dolgov/files/WHD/Pandemic/Quick%20Tip%20Poster%20FFCRA.pdf>



*Paid leave is capped at specific maximum amounts per worker

Does not state you must post

April 29, 2020

OSHA Occupation Risk Exposure Triangle

VERY HIGH EXPOSURE RISK

Jobs with a high potential for exposure to known or suspected sources of COVID-19 during specific medical, postmortem, or laboratory procedures.

HIGH EXPOSURE RISK

Jobs with a high potential for exposure to known or suspected sources of COVID-19. Workers in this category include:

- Healthcare delivery, healthcare support, medical transport, and mortuary workers exposed to known or suspected COVID-19 patients or bodies of people known to have, or suspected of having, COVID-19 at the time of death.

MEDIUM EXPOSURE RISK

Jobs that require frequent/close contact with people who may be infected, but who are not known or suspected patients. Workers in this category include:

- Those who may have contact with the general public (e.g., schools, high-population-density work environments, some high-volume retail settings), including individuals returning from locations with widespread COVID-19 transmission.

LOWER EXPOSURE RISK (CAUTION)

Jobs that do not require contact with people known to be, or suspected of being, infected.

- Workers in this category have minimal occupational contact with the public and other coworkers.

For more information, see the [Guidance on Preparing Workplaces for COVID-19](#).



The four exposure risk levels represent probable distribution of risk.

CDC Employee Screening Guidance

If social distance or barrier controls cannot be implemented during screening, PPE can be used when the screener is within 6 feet of an employee during screening. However, reliance on PPE alone is a less effective control and more difficult to implement given PPE shortages and training requirements.


- **Reliance on Personal Protective Equipment (PPE):** Upon arrival, the screener should wash their hands with soap and water for at least 20 seconds or use hand sanitizer with at least 60% alcohol, put on a facemask, eye protection (goggles or disposable face shield that fully covers the front and sides of the face), and a single pair of disposable gloves. A gown could be considered if extensive contact with an employee is anticipated. Then:
 - Make a visual inspection of the employee for signs of illness, which could include flushed cheeks or fatigue, and confirm that the employee is not experiencing coughing or shortness of breath.
 - Take the employee's temperature.
 - **If performing a temperature check on multiple individuals, make sure that you use a clean pair of gloves for each employee and that the thermometer has been thoroughly cleaned in between each check.** If disposable or non-contact thermometers are used and you did not have physical contact with an individual, you do not need to change gloves before the next check. If non-contact thermometers are used, you should clean and disinfect them according to manufacturer's instructions and facility policies.
 - After each screening, remove and discard PPE and wash hands with soap and water for at least 20 seconds or use hand sanitizer with at least 60% alcohol.

CDC Machinery Disinfection Guideline

How do I clean and disinfect machinery or equipment?

Current evidence, though still preliminary, suggests that SARS-CoV-2, the virus that causes COVID-19, may remain viable for hours to days on surfaces made from a variety of materials. It may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads.

If the machinery or equipment in question are not accessible to employees or have not been in contact with someone infected with COVID-19, they will not present an exposure hazard.

If machinery or equipment are thought to be contaminated and can be cleaned, follow the [CDC cleaning and disinfection recommendations](#). First clean dirty surfaces with soap and water. Second, disinfect surfaces using [products that meet EPA's criteria for use against SARS-Cov-2](#)  and are appropriate for the surface.

If machinery or equipment are thought to be contaminated and **cannot** be cleaned, they can be isolated. Isolate papers or any soft (porous) surfaces for a minimum of 24 hours before handling. After 24 hours, remove soft materials from the area and clean the hard (non-porous) surfaces per the cleaning and disinfection recommendations. Isolate hard (non-porous) surfaces that cannot be [cleaned and disinfected](#) for a minimum of 7 days before handling.

SBA Economic Injury Disaster Loan (EIDL)

Phase 3.5 law provided an addition \$50 billion in loans and \$10 billion for grants

Notice: Lapse in Appropriations

SBA is unable to accept new applications at this time for the Economic Injury Disaster Loan (EIDL)-COVID-19 related assistance program (including EIDL Advances) based on available appropriations funding.

Applicants who have already submitted their applications will continue to be processed on a first-come, first-served basis.

No indication of when EIDL will reopen

Emergency Injury Disaster Loan (EIDL) Status



Loans Approved	38,984	Total Dollars	\$7,967,174,888
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STATE	APPROVED	DOLLARS	STATE	APPROVED	DOLLARS
Alabama	336	\$63,376,000	Iowa	154	\$28,010,200
Alaska	8	\$3,120,100	Kansas	202	\$42,892,700
Arkansas	155	\$31,675,500	Kentucky	284	\$49,688,600
Arizona	645	\$139,672,400	Louisiana	860	\$166,639,800
California	8,985	\$1,895,998,988	Maine	315	\$50,262,400
Colorado	958	\$197,010,900	Maryland	664	\$145,745,800
Connecticut	947	\$185,811,200	Massachusetts	768	\$153,589,400
Delaware	95	\$23,319,300	Michigan	738	\$160,708,400
Florida	2,936	\$540,305,900	Minnesota	552	\$128,716,700
Georgia	1,498	\$304,367,000	Mississippi	140	\$30,532,800
Hawaii	17	\$3,428,400	Missouri	336	\$74,806,500
Idaho	98	\$19,497,100	Montana	114	\$20,068,200
Illinois	1,243	\$255,901,100	Nebraska	90	\$21,148,200
Indiana	530	\$105,397,100	Nevada	734	\$149,739,100

April 24, 2020

Emergency Injury Disaster Loan (EIDL) Status



Loans Approved	38,984	Total Dollars	\$7,967,174,888
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<u>STATE</u>	<u>APPROVED</u>	<u>DOLLARS</u>	<u>STATE</u>	<u>APPROVED</u>	<u>DOLLARS</u>
New Hampshire	208	\$45,186,100	Texas	2,073	\$457,972,100
New Jersey	1,098	\$225,636,100	Utah	484	\$105,804,100
New Mexico	206	\$37,534,200	Vermont	51	\$10,383,500
New York	1,674	\$356,159,000	Virginia	903	\$195,125,600
North Carolina	1,120	\$221,116,800	Washington	1,794	\$311,360,500
North Dakota	80	\$17,069,100	West Virginia	53	\$8,085,000
Ohio	1,278	\$252,197,100	Wisconsin	339	\$71,675,400
Oklahoma	261	\$59,792,200	Wyoming	55	\$12,034,900
Oregon	423	\$91,249,100	American Samoa	0	
Pennsylvania	1,058	\$211,045,800	District of Columbia	254	\$63,681,600
Rhode Island	223	\$33,808,600	Guam	0	
South Carolina	446	\$87,427,800	Northern Mariana	1	\$63,500
South Dakota	36	\$6,157,400	Puerto Rico	11	\$1,126,800
Tennessee	420	\$93,487,100	U.S. Virgin Islands	3	\$565,700

April 24, 2020

Three Main Street Loan Facilities Created

- No start date yet, Powell says soon
- Creating third loan option, with increased risk sharing by lenders;
- Lowering minimum loan size to \$500,000 - more accessible for small businesses;
- Businesses up to 15,000 employees or up to \$5b in annual revenue now eligible;
- Treasury will provide \$75 billion for the program using funds from CARES Act

Main Street Lending Program Loan Options	New Loans	Priority Loans	Expanded Loans
Term	4 years	4 years	4 years
Minimum Loan Size	\$500,000	\$500,000	\$10,000,000
Maximum Loan Size	Lesser of \$25M or 4x 2019 adjusted EBITDA	Lesser of \$25M or 6x 2019 adjusted EBITDA	Lesser of \$200M, 35% of outstanding and undrawn available debt, or 6x 2019 adjusted EBITDA
Risk Retention	5%	15%	5%
Payment (year one deferred for all)	Years 2-4: 33.33% each year	Years 2-4: 15%, 15%, 70%	Years 2-4: 15%, 15%, 70%
Rate	LIBOR + 3%	LIBOR + 3%	LIBOR + 3%

Three Main Street Loan Facilities Created

- Main Street loans are full-recourse loans and are not forgivable
- Main Street Priority Lending Facility permits use to pay existing debt to a lender who is not the lender to company for the MSPL
- A business that has received PPP loans, or that has affiliates that have received PPP loans, is permitted to borrow under Main Street
- Borrower must submit an application and any other documentation required by an Eligible Lender to such Eligible Lender
- No payments of principal or interest required during the first 12 months of loan
- Loans may be secured or unsecured
- Eligible Borrower should undertake good-faith efforts to maintain payroll and retain employees, in light of its capacities, the economic environment, its available resources, and the business need for labor.

SBA PPP Loan Status

- \$310 billion included in COVID Phase 3.5 law
- Program restarted Monday, April 27 10:30 AM
- SBA processed \$50 billion in loans in first 24 hours
- Treasury: now have enough funding to cover all 60 million small business employees
- Concern over smaller banks being crowded out under first come first served
- No lender may account for more than 10% of all loans (no lender higher than 5% now)

PPP: SBA Pacing Loan Submissions in E-Trans

↳ SBA Retweeted



Jovita Carranza, SBA ✓ @SBAJovita · 2h

To assist small community lenders and ensure their small business customers have access to the [#PaycheckProtectionProgram](#), today from 4 PM EDT - 11:59 PM EDT, [@SBAgov](#) systems will only accept loans from lending institutions with asset sizes less than \$1 billion.

💬 48

↳ 87

❤️ 85



↳ SBA Retweeted



Jovita Carranza, SBA ✓ @SBAJovita · 2h

Lending institutions with asset sizes less than \$1 billion will still be able to submit [#PaycheckProtectionProgram](#) loans outside this time frame as well. This reserved processing time applies today, April 29, 2020.

💬 15

↳ 35

❤️ 35




PPP: SBA to Audit Loans over \$2 million





U.S. Small Business
Administration







“We have noted the large number of companies that have appropriately reevaluated their need for PPP loans and promptly repaid loan funds in response to SBA guidance reminding all borrowers of an important certification required to obtain a PPP loan. To further ensure PPP loans are limited to eligible borrowers, the SBA has decided, in consultation with the Department of the Treasury, that it will review all loans in excess of \$2 million, in addition to other loans as appropriate, following the lender’s submission of the borrower’s loan forgiveness application. Regulatory guidance implementing this procedure will be forthcoming.

 SBA Retweeted

 **Jovita Carranza, SBA**  @SBAJovita · 20h

Regulatory guidance implementing this procedure will be forthcoming.
[@SBAgov](#) remains fully committed to ensuring that America's workers and small businesses get the resources they need to get through this challenging time.

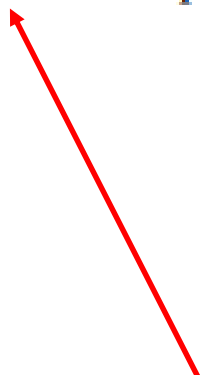
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April 28, 2020

PPP: Adequate Sources of Liquidity

37. **Question:** Do businesses owned by private companies with adequate sources of liquidity to support the business's ongoing operations qualify for a PPP loan?

Answer: See response to FAQ #31.¹⁴



Pending forgiveness guidance
should provide clarity...

PPP: Loan Necessary to Support Ongoing Operations

31. Question: Do businesses owned by large companies with adequate sources of liquidity to support the business's ongoing operations qualify for a PPP loan?

Answer: In addition to reviewing applicable affiliation rules to determine eligibility, all borrowers must assess their economic need for a PPP loan under the standard established by the CARES Act and the PPP regulations at the time of the loan application. Although the CARES Act suspends the ordinary requirement that borrowers must be unable to obtain credit elsewhere (as defined in section 3(h) of the Small Business Act), borrowers still must certify in good faith that their PPP loan request is necessary. Specifically, before submitting a PPP application, all borrowers should review carefully the required certification that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” Borrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business. For example, it is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith, and such a company should be prepared to demonstrate to SBA, upon request, the basis for its certification.

Lenders may rely on a borrower's certification regarding the necessity of the loan request. Any borrower that applied for a PPP loan prior to the issuance of this guidance and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith.¹¹

PPP: What Does This All Mean?

- Regulations have a hold harmless provision for lenders
- Borrowers must certify
- Lenders can use documents you provided prior to loan and at end of 8-weeks
- What is threshold to certify a need? More questions than answers

Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.

The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.

IRS: If Loan Forgiven, Wages Paid Not Deductible

Notice 2020-32

PURPOSE

This notice provides guidance regarding the deductibility for Federal income tax purposes of certain otherwise deductible expenses incurred in a taxpayer's trade or business when the taxpayer receives a loan (covered loan) pursuant to the Paycheck Protection Program under section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)). Specifically, this notice clarifies that no deduction is allowed under the Internal Revenue Code (Code) for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281, 286-93 (March 27, 2020) and the income associated with the forgiveness is excluded from gross income for purposes of the Code pursuant to section 1106(i) of the CARES Act.

April 30, 2020

Next Steps – Is Congress not Essential...?

- Senate returns to Washington, D.C. May 4 to consider nominations
- House may return May 11
- 11 construction workers, 12 Capitol Hill Police Officers confirmed with COVID-19
- House Democratic tax committee chair offering permanent expensing in next bill
- McConnell pushing business liability protection
- Trump wants another round of checks to go out to individuals
- Treasury not pushing for another round of PPP, EIDL funding
- Even with lawmakers out, hope is for a CARES 2 by Memorial Day



MEMBER MAKING A DIFFERENCE

Hear how members of PMA and NTMA are answering the call to fight COVID-19.



PMATalk
@PMATalk

Edward Morris, president of PMA member P/A Industries Inc., was quoted in this [@AP](#) article about his experience running a manufacturing company in Connecticut during [#COVID19](#). For the full story, click here:
thedailyrecord.com/2020/04/29/us-
...

The logo for Associated Press (AP), consisting of the letters 'AP' in a large, bold, black serif font. Below the letters is a solid red horizontal bar.

For now, tens of millions of U.S. businesses and laid-off or furloughed workers are hoping for a swift and solid economic rebound. Among them is Edward Morris, the president of P/A Industries Inc., a small manufacturing firm in Bloomfield, Connecticut, with 45 workers that makes machines for metal forming companies. Morris said so far he's been able to keep all of his workers employed, though he fears what will happen when his current order backlog runs out in a few weeks.

"Starting last week, orders dropped off a cliff," he said.

Morris said he has applied for a loan from the Small Business Administration but is concerned about what will happen to his workers once that money runs out.

More Resources: www.onevoiceinfo.org

ONE VOICE COVID-19 RAPID RESPONSE WEBSITE

EMAIL:
ONEVOICE@POLICYRES.COM



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Questions?

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