

COVID-19 Update

Presented by
The Franklin Partnership, LLC
Policy Resolution Group at Bracewell
May 15, 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
- CDC Interim Guidance for Businesses
- CDC & OSHA Interim Guidance for Manufacturers
- FFCRA: Child Care in Summer
- IRS: Reminder on FFCRA Tax Credits
- EEOC Forms Due Dates Delayed
- PPP Update
- Status of Legislative Proposals
- Questions

All information presented as of May 14, 2020

To Have Your Voice Heard, Complete the Survey!

Survey Metrics

📅 Date Metrics		✉️ Deployment Metrics		💬 Response Metrics	
Start Date	12-May-20	Sent	1,745	Completed	116
End Date	30-Sep-20	Delivered	1,657	Unique Access Rate	7.00%
		Bounced	88	Incomplete	0
				Incomplete Incl. in Report	0

State Re-Opening Guide Posted

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](#)
[Connecticut](#)
[Delaware](#)
[Florida](#)
[Georgia](#)
[Hawaii](#)
[Idaho](#)
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[Minnesota](#)
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[New Mexico](#)
[New York](#)
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[Tennessee](#)
[Texas](#)
[Vermont](#)
[Virginia](#)
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[Wisconsin](#)

State Re-Opening Guides

NEW HAMPSHIRE

Stay at Home order ends: May 31, 2020

Sununu announced a new “[Stay at Home 2.0](#)” order on May 1. It is in effect until the end of the month. It provides new guidance for specific business sectors.

Manufacturing businesses can continue to operate under the under with modified employee protection [guidelines](#).

NEW YORK

Regional State Partnership: Northeast (Connecticut, Delaware, Massachusetts, New Jersey, New York, Pennsylvania & Rhode Island).

Stay at Home order ends: May 15, 2020

Gov. Cuomo on April 28 [outlined a 12-step plan to reopen parts](#) of the state. The plan would require establishing regional isolation facilities to monitor the outbreak and hiring contact tracers to track the spread of the virus. It also centers on keeping hospitals from growing overwhelmed.

Cuomo said that businesses that do reopen will need to guarantee that their employees and customers maintain adequate social distancing. They will also have to frequently test employees, maintain strict cleaning standards and follow continuous tracing and reporting protocols, among other precautions.

Gov. Cuomo has indicated that manufacturing and construction in some parts of the state would be among those permitted to resume operations more quickly under an initial phase.

State Re-Opening Guides

UTAH

Stay at Home order ends: No order issued

While Utah had never imposed a stay at home order, the state is now operating under a “moderate risk” posture that allows for some reopenings of business in the state. The current posture allows for limited in-person retail and dine-in service at restaurants, among other changes.

Utah had previously operated under a “high risk” posture that imposed more limitations on those businesses and other industries, with general exceptions for essential businesses including manufacturing.

[Utah Leads Together](#) is Gov. Herbert’s comprehensive task force plan to mitigate the economic consequences of COVID-19. The [plan](#) outlines the path to recovery and identifies tools to gauge success in reopening Utah’s economy.

WISCONSIN

Regional State Partnership: Midwest (Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, Wisconsin).

Stay at Home order ends: May 26, 2020

Looking ahead to a phased reopening, Gov. Evers has issued a [“Badger Bounce Back”](#) plan that outlines different phases of reopening for Wisconsin and how business conditions in the state might change, but none of that plan has yet been implemented.

CDC: Interim Guidance for Businesses

Summary of Changes to the Guidance:

Below are changes as of May 6, 2020

- Updated strategies and recommendations for employers responding to COVID-19, including those seeking to resume normal or phased business operations:
 - Conducting daily health checks
 - Conducting a hazard assessment of the workplace
 - Encouraging employees to wear cloth face coverings in the workplace, if appropriate
 - Implementing policies and practices for social distancing in the workplace
 - Improving the building ventilation system
- A table outlining the engineering controls, administrative controls, and personal protective equipment (PPE) that employers may use to help prevent the spread of COVID-19 in the workplace

CDC: Use Table to Implement Appropriate Controls

Engineering Controls	Administrative Controls	Personal Protective Equipment
<p>Facilities and Equipment</p> <ul style="list-style-type: none"> Assess job hazards for feasibility of engineering controls Ensure ventilation and water systems operate properly Alter workspaces to maintain social distancing. Examples include: <ul style="list-style-type: none"> Configure partitions as a barrier shield Move electronic payment reader away from cashier Use verbal announcements, signage, and visual cues to promote social distancing Remove/rearrange furniture Provide remote shopping alternatives (e.g., delivery, pick-up) 	<p>Management and Communications</p> <ul style="list-style-type: none"> Monitor state and local public health communications about COVID-19 Encourage sick workers to report symptoms, stay home, and follow CDC guidance Develop strategies to: <ul style="list-style-type: none"> manage worker concerns communicate with workers Remind workers of available support services Communicate to partners, suppliers, other contractors on policies and practices Encourage social distancing and the use of cloth face coverings (if appropriate) in the workplace Use technology to promote social distancing (e.g., telework and virtual meetings) Cancel group events Close/limit use of shared spaces Ask customers who are ill to stay home Consider policies that encourage flexible sick leave and alternative work schedules Schedule stocking during off-peak hours <p>Cleaning and Disinfection Clean and disinfect frequently touched surfaces, (e.g., counters, shelving, displays) Provide employees with disposable disinfectant wipes, cleaner, or sprays that are effective against the virus that causes COVID-19</p> <p>Training Provide employees with training on:</p> <ul style="list-style-type: none"> Policies to reduce the spread of COVID-19 General hygiene Symptoms, what to do if sick Cleaning and disinfection Cloth face covers Social distancing Use of PPE Safe work practices Stress management 	<p>PPE</p> <ul style="list-style-type: none"> Conduct workplace hazard assessment Determine what PPE is needed for their workers' specific job duties based on hazards and other controls present Select and provide appropriate PPE to the workers at no cost.

CDC & OSHA: Interim Guidance for Mfg

Cleaning and disinfection in manufacturing

For tool-intensive operations, employers should ensure tools are regularly cleaned and disinfected, including at least as often as workers change workstations or move to a new set of tools. Refer to [List N](#) on the EPA website for EPA-registered disinfectants that have qualified under EPA's emerging viral pathogens program for use against SARS-CoV-2.

Establish protocols and provide supplies to increase the frequency of sanitization in work and common spaces.

[Disinfect](#) frequently touched surfaces in workspaces and break rooms (e.g., microwave and refrigerator handles, vending machine touchpads, knobs, levels, and sink handles) at least once per shift, if possible. For example, wipe down tools or other equipment at least as often as workers change workstations. Frequently clean push bars and handles on any doors that do not open automatically and handrails on stairs or along walkways. If physical barriers are being used, then these should be cleaned frequently.

Workers who perform cleaning and disinfection tasks may require additional PPE and other controls to protect them from chemical hazards posed by disinfectants. Note: Employers must ensure their [written hazard communication program](#) is up to date and training is up to date for all employees. (Also, see OSHA's [enforcement discretion memorandum](#) on this topic.) Employers may need to adapt guidance from this section, the [Environmental Services Workers and Employers](#) section, and the [Interim Guidance for Workers and Employers of Workers at Increased Risk of Occupational Exposure](#), to fully protect workers performing cleaning and disinfection activities in manufacturing workplaces.

Personal protective equipment

Employers must conduct a hazard assessment to determine if hazards for which workers need PPE are present, or are likely to be present. OSHA's [PPE standards](#) (29 CFR 1910 Subpart I) require employers to select and provide appropriate PPE to protect workers from hazards identified in the hazard assessment. The results of that assessment will be the basis of workplace controls (including PPE) needed to protect workers.

<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-manufacturing-workers-employers.html#controls>

CDC & OSHA: Interim Guidance for Mfg

<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-manufacturing-workers-employers.html#controls>

Manufacturing Employees

Things you can do in and outside of work to protect yourself and your coworkers from COVID-19

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/manufacturing-employees-fs.pdf>

Manufacturing Facilities:

Key Strategies to Prevent COVID-19 Infection among Employees

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/manufacturing-companies-fs.pdf>

Manufacturing Industries and Industrial Facilities

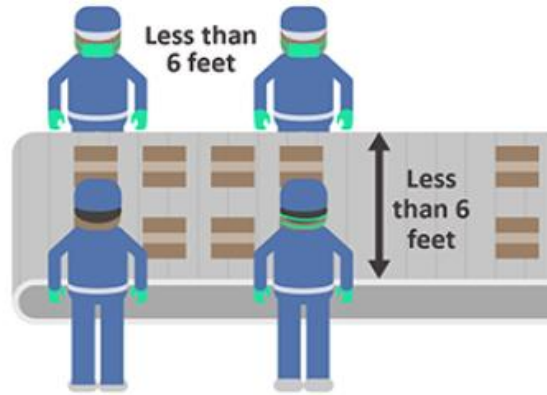
- Apparel and Footwear
- Battery Manufacturing
- Chemical Manufacturing
- Concrete and Concrete Products
- Fireworks
- Food Processing
- Lead Smelters
- Lubricant Manufacturing
- Metal Manufacturing
- Plastics Industry
- Furniture Manufacturing
- Automobile Manufacturing
- Printing Industry
- Pulp, Paper, and Paperboard Mills
- Semiconductor Industry
- Textiles
- Wood Product Industry

Note: This list is not exhaustive. This guidance may apply to other types of manufacturing activities. Guidance for workers and employers in [meat and poultry processing](#), which is often considered a manufacturing industry, is provided separately.

CDC: How to Align Mfg Workstations, If Feasible

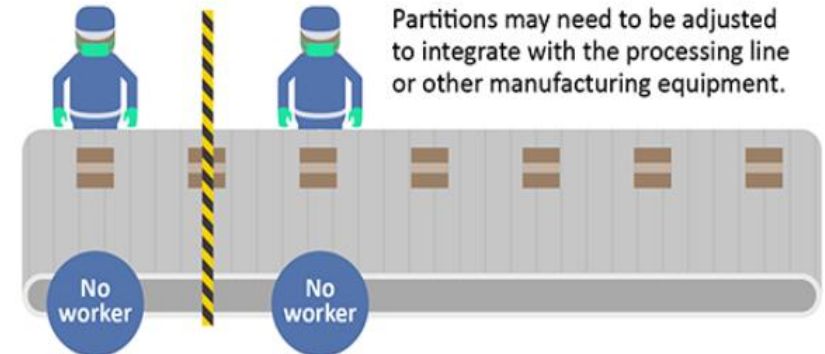
Bad:

Workers are within six feet of one another, including at side-by-side or facing workstations.



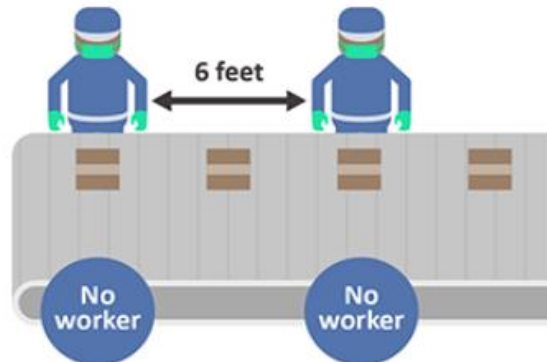
Good:

Physical barriers, such as partitions, separate workers from each other.



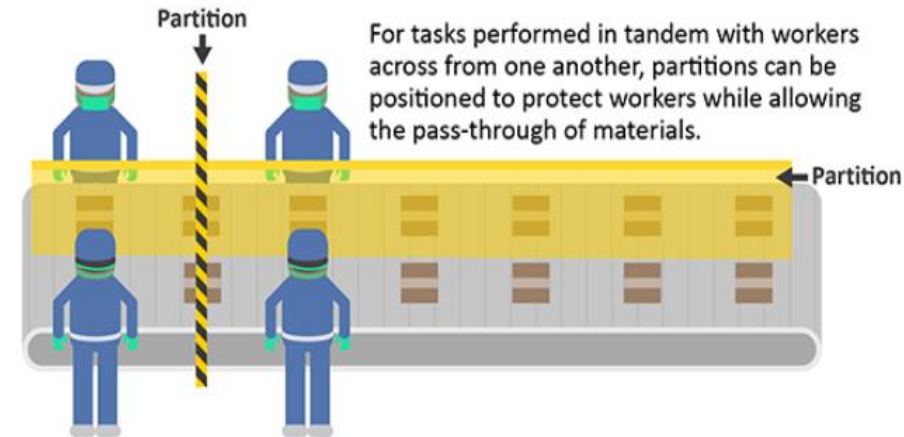
Good:

Workers are spaced at least six feet apart, not facing one another. Another setup may be used to achieve similar distancing between workers.



Good:

Physical barriers, such as partitions, separate workers from each other, including where workers need to perform tasks in tandem across from one another.



DoL FFCRA FAQ: School's Out for Summer

93. I took paid sick leave and am now taking expanded family and medical leave to care for my children whose school is closed for a COVID-19 related reason. After completing distance learning, the children's school closed for summer vacation. May I take paid sick leave or expanded family and medical leave to care for my children because their school is closed for summer vacation?

No. Paid sick leave and emergency family and medical leave are not available for this qualifying reason if the school or child care provider is closed for summer vacation, or any other reason that is not related to COVID-19. However, the employee may be able to take leave if his or her child's care provider during the summer—a camp or other programs in which the employee's child is enrolled—is closed or unavailable for a COVID-19 related reason.

Paid Sick, Family Leave Refundable Credit

COVID Tax Tip 2020-53, May 7, 2020

Small and midsize employers can claim [two new refundable payroll tax credits](#). The paid sick leave credit and the paid family leave credit are designed to immediately and fully reimburse eligible employers for the cost of providing COVID-19 related leave to their employees.

Here are some key things to know about these credits.

Paid sick and family leave

For COVID-19 related reasons, employees receive up to 80 hours of paid sick leave when they are sick or caring for someone else who is, and up to 10 weeks of paid family leave when their children's schools or place of care are closed, or child care providers are unavailable due to COVID-19.

Coverage

- Employers receive 100% reimbursement for required paid leave.
- Health insurance costs are also included in the credit.
- Employers do not owe their share of social security tax on the paid leave and get a credit for their share of Medicare tax on the paid leave.
- Self-employed individuals receive an equivalent credit.

Fast funds

- Reimbursement will be quick and easy.
- The credit provides a dollar-for-dollar tax offset against the employer's payroll taxes
- The IRS will send any refunds owed as quickly as possible.

To take immediate advantage of the paid leave credits, businesses should use funds they would otherwise pay to the IRS in payroll taxes. If those amounts are not enough to cover the cost of paid leave, employers can request an expedited advance from the IRS by submitting [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#).

<https://www.irs.gov/newsroom/covid-19-paid-leave-tax-credits-for-small-and-midsize-businesses>

Unemployment Insurance “Able to Work” Enforcement

Conformity and compliance with Federal UC laws. The Department requires that states maintain key eligibility determination processes for regular UC claims in order to be in conformity and compliance with federal UC laws. Specifically, states must maintain weekly certification processes to ensure continuing eligibility of UI claimants and must complete required checks for interstate wages. This guidance is not intended to be an exhaustive list of federal requirements; rather, it addresses recent state requests and actions in the two areas addressed below. This section also addresses how these two requirements impact the CARES Act UI programs.

i. Weekly Certification Process Required for Conformity and Substantial Compliance

The weekly certification process ensures that claimants continue to meet program eligibility requirements, including the requirements to be “able to work” and “available to work.” Although UIPL No. 10-20 describes flexibilities available to states regarding how individuals meet the “able to work” and “available to work” requirements in light of efforts to respond to the spread of COVID-19, states must continue to require weekly certifications by claimants. Suspension of the weekly certification process puts the state out of conformity and substantial compliance with federal UC law. A state’s failure to administer its UI program in conformity and substantial compliance with federal law can result in loss of the state’s certification and loss of its administrative grant to operate the program and/or its employers’ tax credits under the Federal Unemployment Tax Act (FUTA).

https://wdr.doleta.gov/directives/attach/UIPL/UIPL_23-20.pdf “”

IRS Reverses on Employee Retention Credit



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

May 7, 2020

The Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Grassley:

I write in reply to your May 4, 2020 letter regarding recent guidance issued by the Department of the Treasury and the Internal Revenue Service on how employers should determine the amount of allocable qualified health plan expenses under the employee retention credit offered pursuant to section 2301 of the Coronavirus Aid, Relief, and Economic Security Act. The Department has taken your views under consideration and will be revising the applicable guidance.

If you have further questions, please direct your staff to contact the Office of Legislative Affairs.

Sincerely,

A handwritten signature in blue ink that reads "Frederick W. Vaughan".

Frederick W. Vaughan
Principal Deputy Assistant Secretary
Office of Legislative Affairs

EEOC: Delay EEO-1 Data Collection

EEOC Delays EEO Data Collections Due to COVID-19 Public Health Emergency

WASHINGTON -- The U.S. Equal Employment Opportunity Commission (EEOC) will delay the anticipated opening of the 2019 EEO-1 Component 1 data collection and the 2020 EEO-3 and EEO-5 data collections because of the Coronavirus Disease 2019 (COVID-19) public health emergency, the agency announced today in a [Federal Register](#) notice.

The EEO (equal employment opportunity) [surveys collect data](#) from employers in different sectors of the workforce. The EEOC was planning to open the following EEO surveys in 2020: the 2019 EEO-1 Component 1 (Employer Information Report); the 2020 EEO-3 (Local Report); and the 2020 EEO-5 (Elementary-Secondary Staff Information Report).

The EEOC recognizes the impact that the current public health emergency is having on workplaces across America and the challenges that both employers and employees alike are now facing. Filers of the EEO-1, EEO-3 and EEO-5, which include private sector employers, local referral unions, and public elementary and secondary school districts, are dealing with unique and urgent issues. Delaying the collections until 2021 will ensure that EEO filers are better positioned to provide accurate, valid and reliable data in a timely manner.

EEO-1, EEO-3 and EEO-5 filers should begin preparing to submit data in 2021. Pending approval from the Office of Management and Budget under the Paperwork Reduction Act (PRA) the EEOC would expect to begin collecting the 2019 and 2020 EEO-1 Component 1 in March 2021 and will notify filers of the precise date the surveys will open as soon as it is available. The EEOC would expect to begin collecting the 2020 EEO-3 and the 2020 EEO-5 in January 2021 and will notify filers of the precise date the surveys will open as soon as it is available.

In addition to updates to the agency website, the EEOC will be reaching out directly to EEO-1, 3, and 5 filers regarding the delayed opening of the surveys.

<https://www.eeoc.gov/newsroom/eeoc-delays-eeo-data-collections-due-covid-19-public-health-emergency>

PPP Round 2 Status

Summary of Paycheck Protection Program Round 2 data as of 5:00 p.m. EDT, Thursday, May 14, 2020.

Lender Size	Approved Loans	Approved Dollars
>\$50B in Assets	1,263,562	\$101,848,773,290
\$10B to \$50B in Assets	378,607	\$29,486,220,755
<\$10B in Assets	1,075,664	\$62,324,115,777
Total:	2,717,833	\$193,659,109,822
Over \$115 billion still remains		
# of Participating Lenders	5,475	Avg Loan Size: \$71,254

In Round Two of the Paycheck Protection Program (April 27 - May 8, 2020), the SBA has guaranteed 2,571,167 loans. For more information on Round Two loan activity, [click here](#).

In Round Two of the Paycheck Protection Program (April 27 - May 1, 2020), the SBA has guaranteed 2,211,791 loans. For more information on Round Two loan activity, [click here](#).

In Round One of the Paycheck Protection Program, (through April 16, 2020), the SBA guaranteed 1,661,367 loans. For more information on loan activity, [click here](#).

PPP Audits: No Review Under \$2 Million

46. Question: How will SBA review borrowers' required good-faith certification concerning the necessity of their loan request?

Answer: When submitting a PPP application, all borrowers must certify in good faith that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” SBA, in consultation with the Department of the Treasury, has determined that the following safe harbor will apply to SBA’s review of PPP loans with respect to this issue: Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith.

SBA has determined that this safe harbor is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity in the current economic environment than borrowers that obtained larger loans. This safe harbor will also promote economic certainty as PPP borrowers with more limited resources endeavor to retain and rehire employees. In addition, given the large volume of PPP loans, this approach will enable SBA to conserve its finite audit resources and focus its reviews on larger loans, where the compliance effort may yield higher returns.

Importantly, borrowers with loans greater than \$2 million that do not satisfy this safe harbor may still have an adequate basis for making the required good-faith certification, based on their individual circumstances in light of the language of the certification and SBA guidance. SBA has previously stated that all PPP loans in excess of \$2 million, and other PPP loans as appropriate, will be subject to review by SBA for compliance with program requirements set forth in the PPP Interim Final Rules and in the Borrower Application Form. If SBA determines in the course of its review that a borrower lacked an adequate basis for the required certification concerning the necessity of the loan request, SBA will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for loan forgiveness. If the borrower repays the loan after receiving notification from SBA, SBA will not pursue administrative enforcement or referrals to other agencies based on its determination with respect to the certification concerning necessity of the loan request. SBA’s determination concerning the certification regarding the necessity of the loan request will not affect SBA’s loan guarantee.

Added May 13, 2020

PPP Audits: Safe Harbor Extended to May 18

47. **Question:** An SBA interim final rule posted on May 8, 2020 provided that any borrower who applied for a PPP loan and repays the loan in full by May 14, 2020 will be deemed by SBA to have made the required certification concerning the necessity of the loan request in good faith. Is it possible for a borrower to obtain an extension of the May 14, 2020 repayment date?

Answer: Yes, SBA is extending the repayment date for this safe harbor to May 18, 2020, to give borrowers an opportunity to review and consider FAQ #46. Borrowers do not need to apply for this extension. This extension will be promptly implemented through a revision to the SBA's interim final rule providing the safe harbor.²¹

FLASH REPORT

SMALL BUSINESS ADMINISTRATION'S
IMPLEMENTATION OF THE PAYCHECK PROTECTION
PROGRAM REQUIREMENTS

May 8, 2020

SBA Inspector General Flash Report Findings

Results

We found that SBA's formal guidance, issued as its seven Interim Final Rules, for implementing the PPP and its FAQs mostly aligned with the Act. We identified the following areas, however, that did not fully align with the Act's provisions:

- Prioritizing Underserved and Rural Markets
- Loan Proceeds Eligible for Forgiveness
- Guidance on Loan Deferments
- Registration of Loans

We found the formal guidance in SBA's Interim Final Rule did not align with the allowable use requirements for PPP loans.

While the Act did not create any restrictions on the portion of the loan that needed to be used for payroll, SBA added a requirement in its Interim Final Rule, that at least 75 percent of the loan proceeds must be used for payroll.

Next Steps on Legislation

- House Democrats moving \$3 trillion package
 - A political bill: broad scope beyond COVID-19
 - Not intended to become law
 - Will not pass Senate
- Introduction of House bill putting pressure on Senate GOP in competitive races
- McConnell wants to slow things down
- Mnuchin wants to slow things down
- Trump wants to speed things up
- Federal Reserve Chairman Powell remarks this week putting more pressure to act
- Democrats want a bill by Memorial Day
- Timeline likely slips to by July 1
- \$100 billion left in PPP account removes some sense of urgency for GOP to act



05:24



How One Factory Has Kept Operating During The Coronavirus Pandemic

May 08, 2020



Many factories around the country have closed due to the coronavirus, but some are still operating. One is [Zierick Manufacturing Corporation](#) in Mount Kisco, New York.

It's a family-owned business, deemed essential, that has kept operating with some changes. *Here & Now's* Jeremy Hobson talks to **Gretchen Zierick**, president of Zierick Manufacturing Corporation.

Take Action. Your Work Matters.



NTMA and PMA members are:

- Producing gallons of hand and surface sanitizer.
- Manufacturing face shields, masks, personal space guards and other forms of PPE.
- Making medical equipment including parts for respirators, ventilators, laryngoscopes (used during intubation) and hospital beds.
- Collecting and distributing cards for frontline workers and others.

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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