As member companies try to navigate government action related to stopping the spread of COVID-19, NATM is working to compile the most up-to-date resources available. This document will be edited regularly and updated in real time.

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Workforce Return and Workplace Safeguarding

NATM Releases its on Workplace Safety Guidance

NATM released guidance for the trailer manufacturing industry to support workplace safety efforts in response to COVID-19. This document pulls information from the CDC and OSHA, while incorporating perspectives from the manufacturing industry to identify implementable safety protocols for the trailer manufacturing industry. NATM understands that no two companies are the same and layering in local regulations and the realities of your business operations is important to creating your own workplace safety policies and processes, and as such this guidance is only intended to be a point of reference.

The CDC and OSHA Issued Joint Guidance on Workplace Safety in a Manufacturing Environment

The release is not intended to replace existing guidance, but to act in supplement. The guidance outlines risks specific to manufacturing settings and workplace controls to manage those risks. You can reach more here.

White House and CDC Issue Plans for Reopening the Country

The White House released guidelines for reopening the country using a three-phased approach. The guidelines encourage states to make their own decisions based on local conditions. The guidelines can be found here. Phase one required a downward trend in cases over a two-week period before
initial reopening can occur. The guidelines also layout practices for employers and individuals throughout the process.

The CDC updated its guidance for cleaning and disinfecting workplaces on April 28th. CDC guidance can be found here.

**US Chamber Releases Breakdown of OSHA Guidance**

The US Chamber of Commerce has provided a concise breakdown of OSHA guidance related to workplace safety and COVID-19. It is important to note, this is simply guidance and not a regulatory requirement. The outline is based on the General Duty Clause as OSHA has no specific standard for COVID-19 or pandemic responses more broadly.

**NATM’s Government Affairs Representatives Release Return to Work Guidance**

NATM’s government affairs firm released a return to work checklist meant to support businesses in a number of industries, including both manufacturing and office settings. These are suggested practices, but prior to implementation, all practices and policies should be evaluated to ensure that they are compliant with federal law and guidance, as well as state and local law.

**OSHA Issues Interim Enforcement Guidance Related to N95 Masks**

To help combat supply shortages the Department of Labor’s Occupational Safety and Health Administration (OSHA) has issued interim enforcement guidance related to N95 filtering facepiece respirators (N95 FFRs), allowing extended use and reuse of the such masks as well as encouraging employers to reassess engineering control, work practices and administrative controls to identify changes they can make to decrease the need for N95 masks. This guidance is time limited to the current health crisis.

**US Chamber of Commerce Releases State-by-State Reopening Guidance**

To find state timelines, guidelines, and other reopening information on a state by state basis, click here.
Defining Essential Business/Workforce

*Please note, this is simply guidance as each state or local government is currently enacting its own restrictions on quarantine at this time. Please see the resources below regarding state and local directions.*

The Cybersecurity and Infrastructure Security Agency (CISA), part of the Department of Homeland Security, has released guidance on defining the term “essential” workforce in response to COVID-19.

With regard to manufacturing, CISA reports critical manufacturing includes “Workers necessary for the manufacturing of materials and products needed for medical supply chains, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base.”

With regard to transportation and logistics, CISA states that critical workforce includes:

- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations.
- Automotive repair and maintenance facilities.
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers.

Federal Government Reaction

COVID-19 Response Bills

Phase One - Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020

This bill, passed on March 6, provides $8.3 billion to fund the country’s response to coronavirus, including amongst its many provisions an emergency telehealth waiver, vaccine development, support for state and local governments, and assistance for affected small businesses. The bill in its entirety can be found here. Additional content provided via CNBC.
Phase Two - Families First Coronavirus Response Act (FFCRA)

The FFCRA, legislation expanding paid leave rights for employees, goes into effect April 1, 2020*. The Department of Labor has released guidance explaining paid sick leave and expanded family and medical leave under the FFCRA. Perhaps the most helpful information is found on the Questions and Answers page, which is updated regularly with more information. The guidance also includes a Fact Sheet for Employees, a Fact Sheet for Employers, and an FAQ.

The DOL has just released guidance related to the small business, under 50 employees, exemption process. The Q&A site, questions 58-59 contain this additional guidance. As it appears right now, DOL seems to be trusting small businesses to use good faith in determining if they qualify given the criteria outlined. It is important to note that as of right now, the exemption is only for leave taken for childcare related purposes. As a result, small businesses may not be exempt from the Emergency Paid Sick Leave Act if the leave is being taken for a qualifying reason outside of childcare.

Further, the Department of Labor has released notice that all covered employers are required to post the Employee Rights: Paid Sick Leave and Expanded Family and Medical Leave under the Families First Coronavirus Response Act (FFCRA). A poster is available for non-federal and federal applications.

NATM’s government affairs representatives compiled a breakdown of the key provisions here. This breakdown includes information on the tax credit available to businesses. They also compiled a more comprehensive guide for employers related to FFCRA.

Employee Retention Credit

The Treasury Department launched the Employee Retention Credit on March 31, 2020. You can learn more about the credit here. The Senate Finance Committee also released an FAQ on the matter, found here. The IRS released their FAQ here and a Fact Sheet here.

Phase Three - Coronavirus Aid, Relief, and Economic Security Act (CARES)

The CARES Act, signed into law Friday, March 27th, is set to provide more than $2 trillion in economic relief and stimulus to Americans, small businesses, and companies in industries that have been hit hard by the pandemic.

On April 9th the Treasury Department and Federal Reserve announced expanded lending programs under the CARES Act. They include up to $600 billion for businesses with up to 10,000 employees or $2.5 billion in annual sales, funding for states and municipalities, and additional funds to go to existing programs.

Information regarding the many options available via small business loans can be found here.
Paycheck Protection Program (PPP)

The PPP was created through the CARES Act and appropriated $349 billion for small business loans. The Small Business Administration released an Interim Final Rule for the Paycheck Protection Program and a revised application. On April 23rd an additional $310 billion in funding was approved by Congress.

The Small Business Administration FAQ can be found here. NATM’s government affairs representatives, K&L Gates, have created a summary fact sheet. You can find the list of SBA lenders at www.SBA.gov or ask your local lender if they qualify. The US Chamber released some additional guidance and information here. The Treasury has also released an updated FAQ document to help small businesses apply for the program.

On Friday, June 5th significant flexibilities were added to the PPP as legislation made its way through Congress and was signed by the President. Forbes has laid out the changes in detail here.

Highlights of the Paycheck Protection Program (PPP), including some of the new flexibilities:

- Loans are capped at $10 million
- PPP funding is to be used within 24 weeks (formerly 8 weeks)
- Some of the loan can be forgiven. The forgiveness portion is dependent upon keeping your workforce employed and sustaining your payroll during a defined period.
  - New PPP flexibilities;
    - expanded the amount that can be used for non-payroll expenses without limiting eligibility for forgiveness - previously 75% of funds had to be spent on payroll expenses, that is now 60%.
    - extended the deadline for rehire to Dec. 31, 2020
    - Created additional exceptions for reduced headcount
- Businesses are eligible if they were in operation on Feb. 15, 2020, had employees for whom the borrow paid salaries and payroll taxes, and which:
  - Has (at the time of application,) together with its affiliates, fewer than 500 employees whose principal place of residence is in the US, including full time, part time, and other employees;
  - Meets the applicable employee-based SBA size standard (if any) based on the borrower’s industry NAICS code (measured based on the average for the prior 12 months)
- Loan payments will be deferred for six months.
- Please note, you cannot combine an Economic Injury Disaster Loan and a small business loan through the Paycheck Protection Program
On June 16th the SBA released an updated PPP Loan Forgiveness Application and instructions - that can be found here. Further, the SBA released an **EZ version** of the forgiveness application that applies to borrowed that:

- Are self-employed and have no employers; OR
- Did not reduce the salaries or wages of their employees by more than 25%, and did not reduce the number or hours of their employees; OR
- Experienced reductions in business activity as a result of health directives related to COVID-19, and did not reduce the salaries or wages of their employees by more than 25%.

The EZ application requires fewer calculations and less documentation for eligible borrowers. Details regarding the applicability of these provisions are available in the instructions to the new **EZ application form**.

The SBA further released Interim Final Rules (IFRs) regarding Loan Forgiveness and Loan Review Procedures and Related Borrower and Lender Responsibilities. Both documents include a Q&A style section that can be incredibly helpful for borrowers.

**Tax Credit**

The CARES Act provides for eligible employers a payroll tax credit in cases where operations were suspended due to government order or where companies saw significant declines in gross receipts. NATM’s government affairs representatives at K&L Gates have provided a breakdown of the credit, eligibility and guidance on how to take the credit here. The IRS has expanded its FAQ section related to the tax credit, which can be found here.

**Floor Plan Financing Relief**

The CARES Act, Section 2306, temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns per the Tax Cut and Jobs Act of 2017, increasing the 30% limitation to 50% of taxable income for 2019 and 2020. In short, Section 2306 increased this limitation for 2019 and 2020 to 50%, and allows taxpayers to use their 2019 EBITDA for purposes of their 2020 computation (since 2020 income may be smaller). Effectively, this means a larger interest deduction in a time when businesses will be doing more borrowing, reducing taxable income and reducing the cost of capital.

**Healthcare Provisions**

The CARES Act includes significant healthcare provisions, including telehealth coverages, testing for COVID-19 and more. K&L Gates has provided a breakdown of those provisions here.
Phase Four

In May the House passed the HEROES Act, a $3 trillion dollar package. The Senate is still working on its corresponding Phase 4 package with Senate Leadership indicated the package will be the final economic relief provided this year and will be smaller than the HEROES package passed in the House. The Senate bill is proposed to be complete before the July 4th holiday.

Safe Harbors

Business and industry has openly expressed concerns about safe harbor provisions as companies navigate the return to work and workplace safety. On Tuesday, May 12 the Senate Judiciary Committee held a hearing on the matter. However, much remains to be determined on the matter as Congress continues to grapple with this difficult subject. NATM joined the National Association of Manufacturers and hundreds of its members in signing off on a letter urging Congress to act on the matter promptly.

Small Business Administration

The Small Business Administration has made available low interest loans to certain states and territories for working capital to small businesses. A brief one-pager is available here. Additional loan information from SBA is available here. The application for COVID-19 related loans can be found here.

Internal Revenue Service (IRS)

**COVID Testing Coverage Allowed under High Deductible Health Plans (HDHPs)**

The IRS announced that health plans that otherwise qualify as HDHPs will not lose that status merely because they cover the cost of testing for or treatment of COVID-19 before plan deductibles have been met.

**Net Operating Loss (NOL) Carryback Provision**

The NOL provision in the CARES Act allows your company to use tax losses from 2018, 2019, and 2020 to offset income from the prior five years. Guidance from the Treasury can be found here.

**Deferring Tax Payments Due to COVID-19 Outbreak**
On March 18th, the U.S. Treasury Dept. and IRS issued guidance allowing corporate taxpayers a deferment of up to $10 million of federal income tax payments that would be due on April 15, 2020 until July 15, 2020. Read more here.

State Government Reaction

The National Association of Manufacturers (NAM) has created a COVID-19 State Resources page that provides up-to-date information on state and local declarations and their impact on manufacturing broadly. The NAM has also created a to-the-point State Restriction Snapshot Tracker.

Another State and Local Activity Tracker, provided by Multi State Associates, can be found here. Please note, there are additional tabs across the top for additional information including county-specific information.

Additional Resources

U.S. Chamber of Commerce
Paid Leave Program Guidance
Small Business Disaster Helpdesk
CO - the US Chamber’s platform specifically for small business owners.
Small Business Loan Guidance
Global Dashboard on COVID-19 Government Policies

Centers for Disease Control (CDC)
Coronavirus Homepage
Resources for Businesses and Employers
CDC Guidance for Cleaning

Occupational Safety and Health Administration (OSHA)
Key OSHA standard for COVID-19
OSHA COVID-19 Homepage

HR

NATM’s HR firm also provided information, stemming from the Equal Employment Opportunity Commission, entitled “What you Should Know About the ADA, the Rehabilitation Act, and COVID-19”. This document answers four common questions many employers need to know.

Mental Health claims continue to be the fastest growing claim type. For more information about Mental Health services and additional resources for mental health, click here.

Insurance
Marsh and McLennan Agency, a member of NATM, has created a resource center for its customers on the matter. While these resources are helpful, it is also advisable that companies reach out to their own insurance provider for more information and content specific to their policies.