March 23, 2020

To: PMA New Jersey Members

On Saturday, March 21, 2020, Governor Phil Murphy issued Executive Order 107, a statewide Stay-at-Home order that restricts individual travel to essential services and workers for essential businesses. This order took effect on Saturday at 9:00 p.m.

While not legal advice, PMA’s understanding, based on the order as written and in speaking with manufacturers in the state, is that manufacturing businesses may remain open during this order but should only do so with the minimal staff needed to maintain essential operations.

The exact language in the EO, states,

“To the extent a business or non-profit has employees that cannot perform their functions via telework or work-from-home arrangements, the business or non-profit should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue. Examples of employees who need to be physically present at their work site in order to perform their duties include…” (see Page 10 provision 11)

The New Jersey Businesses FAQ website further advises that,

“Manufacturing, industrial, logistics, ports, heavy construction, shipping, food production, food delivery, and other commercial operations may continue operating, but as explained above, they should limit staff on site to the minimal number to ensure that essential operations can continue.”

Governor Murphy also signed Executive Order No. 108, which invalidates any county or municipal restriction that in any way will or might conflict with any of the provisions of Executive Order No. 107. This is effective as of 9 p.m. on Saturday, March 21 as well.

For those who believe that their retail business or operations are unique and should be included as "essential," they may submit it to the State Director of Emergency Management, who is the Superintendent of State Police. The Director has the discretion to make additions, amendments, clarifications, exceptions and exclusions to these lists.

This action in New Jersey follows similar steps taken in California, Illinois, Kansas, Louisiana, Missouri, Ohio, New Jersey, and New York and only allows for certain essential businesses to continue operations. The ability to continue manufacturing operations is much broader than in those already in place in other states, which in some cases restricts activity to only to those supplying essential businesses such as medical. There is some concern that this is a first step in New Jersey and they could follow the lead of other states and narrow the description to include a subset of manufacturing.
We suggest New Jersey members also review the non-binding U.S. Department of Homeland Security Essential Critical Infrastructure definition guidelines on which PMA lobbied that provides more clarity and covers a broader type of manufacturing business (see Critical Manufacturing page 10). PMA is urging all states to adopt the federal government definitions, unless their own is broader.

The state has been approved by the Small Business Administration for companies seeking disaster loans for up to $2 million.

In Washington, our lobbyists indicate that the U.S. Senate is hoping to vote on a final package in the coming days, though a U.S. Senator has now tested positive for COVID-19 with several others under self-quarantine.

The measure on which PMA is lobbying could include $350 billion for small businesses, those defined as having fewer than 500 employees. This proposal includes allowing eligible companies to receive zero interest "business interruption loans" to pay employees, rent, or mortgages that are backed by the Small Business Administration (SBA), with loan forgiveness contingent on keeping workers on the payroll. The draft bill also includes an expansion of Net Operating Loss and several other provisions requested by the association.

Following conversations with members and a survey of companies last week, our advocacy team in Washington, D.C. submitted to the White House and Congress a list of 10 recommendations to support manufacturers during the COVID-19 economic recovery process, several of which are included in the pending measure. The recommendations include solutions to help with cash flow, prompt payment terms to suppliers for companies receiving federal funds, ensuring banks do not revoke existing lines of credit, and making sure manufacturers have the resources to continue operations and quickly ramp up production after the crisis wanes.

The situation is very fluid and, while PMA is a national organization, we are mobilizing all of our resources to assist our members throughout the country. Working with our advocacy team in Washington, D.C., we have created www.onevoiceinfo.org as a one-stop resource for members to find links to the latest OSHA, CDC and local government resources, including workplace safety posters to print.

Please feel free to reach out to us at any time with questions.