March 30, 2020

AEM recognizes the immense impact that the current COVID-19 pandemic is having on our member companies, their employees, suppliers and customers, as well as partner sectors such as agriculture and construction. We are working closely with the U.S. Congress, the Trump Administration, and state and local governments to make sure they take the necessary legislative and administrative steps to mitigate the harm that the crisis is having on equipment manufacturers. Our top priority is focused on ensuring the health and safety of our member companies, their employees, our staff, and our partners.

Here are some of the latest developments:

**AEM President Dennis Slater’s Message to Member Companies**

Today AEM president Dennis Slater delivered a message on how the association is adjusting to better serve member companies during the COVID-19 pandemic. “The world has changed dramatically over the last few weeks and I know you are doing what you can to keep your teams and their families safe and healthy,” Dennis writes. “These are very uncertain times for our families, employees, and businesses. I want you to know that AEM is with you and we are here to support you.”

As a reminder, please check out AEM’s dedicated COVID-19 resource pages for the latest information and updates.

**“Phase Three” COVID-19 Legislation**

With the U.S. House adjourned indefinitely and the U.S. Senate out until April 20 (for now), the work turns to legislative implementation and long-term recovery efforts. The CARES Act implementation involves a number of federal agencies, such as the Small Business Administration and the Federal Reserve. AEM staff will be providing periodic updates as they become available, highlighting steps being taken to activate the programs included in the CARES Act to provide relief to businesses during the COVID-19 pandemic. Below are additional details about two loan programs established by the CARES Act to provide support to equipment manufacturers, distributors, and suppliers at this time. Please direct any questions to ResponseTeam@aem.org.

**CARES Act Spotlight: Paycheck Protection Program**

The Paycheck Protection Program, which was created as part of the CARES Act, provides federally-guaranteed loans up to a maximum amount of $10 million to eligible businesses, which can be partially forgivable, to encourage businesses to retain employees through the COVID-19 crisis by assisting in the payment of certain costs. Below is a Q&A overview of this program, including provisions specifically relevant to equipment manufacturers.

What does the Paycheck Protection Program provide?
The Program provides $350 billion for expedited individual loans in amounts of up to $10 million through approved lenders that are guaranteed 100% by the US government. The loan proceeds can be used to cover payroll support, such as employee salaries, paid sick or medical leave, insurance premiums, and mortgage, rent, and utility payments incurred from Feb. 15, 2020 through June 30, 2020. The maximum amount of a loan equals 2.5 months of regular payroll expenses (subject to a cap of a $100,000 of annual salary per employee).

What does this mean for an equipment manufacturer?
Borrowers are eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on payroll costs, interest payment on any mortgage incurred prior to Feb. 15, 2020, payment of rent on any lease in force prior to Feb. 15, 2020, and payment on any utility for which service began before Feb. 15, 2020. Borrower and lender fees are waived. Collateral and personal guarantee requirements are waived. The maximum interest rate is 4%, and loan maturity can be as long as 10 years. No prepayment fees will be charged. Loan payments can be deferred for 6-12 months. If you decide to leverage the CARES Act payroll tax credit (another benefit offered), you will not be eligible for this program.

What does my lender get out of this?
Lenders can sell loans on the secondary market. The program provides the regulatory capital risk weight of loans made under this program, and temporary relief from troubled debt restructuring ("TDR") disclosures for loans that are deferred under this program. Lender compensation for servicing the loan is 5% for loans of not more than $350,000; 3% for loans of more than $350,000 and less than $2,000,000; and 1% for loans of not less than $2,000,000.

Does your business qualify?
Your business qualifies if you have fewer than 500 employees, are a small business defined the SBA Size Standards at 13 C.F.R. 121.201, are a 501(c)(3) nonprofit, 501(c)(19) veteran’s organization, or a Tribal business concern described in section 31(b)(2)(C) of the Small Business Act with not more than 500 employees, are a hotel, motel, or restaurant with fewer than 500 employees at each physical location without regard to affiliation under 13 C.F.R. 121.103, a franchise with fewer than 500 employees without regard to affiliation under 13 C.F.R. 121.103, or are a sole proprietor and independent contractor. The SBA counts all individuals employed on a full-time, part-time, or other basis, so the 500-employee cap includes employees obtained from a temporary employee agency, professional employee organization or leasing arrangements. Volunteers are not considered employees.

How will this work?
Current lenders through the SBA 7(a) Loan Program are authorized to make determinations on borrower eligibility and creditworthiness without going through the SBA. It is structured to be as seamless as possible, working within an existing program.

When can we expect this program to go into effect?
The SBA is required to issue implementing regulations within 15 days, and the U.S. Department of Treasury will be approving new lenders. The bill was signed into law on March 27, 2020.

CARES Act Spotlight: Economic Stabilization Loans
The CARES Act establishes a $454 billion loan program to provide liquidity to financial institutions that supports lending to eligible businesses, states and municipalities. The law provides for a program for mid-sized businesses of between 500 and 10,000 employees, but states that the Secretary may establish
other programs and facilities, including a Main Street Lending Program (more on that soon). Below is a Q&A overview of this program, including provisions specifically relevant to equipment manufacturers.

**What are the conditions for the mid-sized business loan program?**
The annual interest rate is not higher than 2%. The Secretary of the Treasury can determine that there shall be no principal or interest for first six months or longer. The loan is not forgivable. The business must certify that the loan is necessary to support operations, must use the loan proceeds to retain 90% of workforce with full compensation and benefits until Sept. 30, 2020, restore no less than 90% of the workforce that existed as of Feb. 1, 2020 and restore all compensation and benefits within four months after termination of the emergency declaration related to COVID-19. The business must be created or organized in the U.S. with significant operations and employees in the U.S. The business cannot be a debtor in a bankruptcy proceeding. There are restrictions on stock buybacks, dividends/capital distributions, and executive compensation although they can be waived if the Secretary determines it is in the government interest and testifies before Congress. The business cannot offshore or outsource jobs for two years after the loan is repaid.

**How will this work?**
Details are forthcoming. The U.S. Treasury has begun writing the regulations that accompany this particular loan program.

**When can we expect this program to go into effect?**
That date is still to be determined. AEM staff is closely monitoring developments, statements, and announcements issued by the Federal Reserve and other financial regulators.

**Looking Ahead to “Phase Four” COVID-19 Legislation**
With the completion of the “phase three” coronavirus relief bill last week, Senate Minority Leader Chuck Schumer (D-N.Y.) predicted: “This is certainly not the end of our work here in Congress—rather the end of the beginning.” Legislators from both parties and administration officials are already roughing out the contours of yet another emergency-spending package—perhaps larger than the last—to try to keep the coronavirus crisis from turning into a 21st-century Great Depression. AEM is sharing a new suite of policy recommendations with Congress and the White House to make sure that equipment manufacturers’ priorities are included in the next package. If you have specific ideas and/or suggestions on what should be included, please contact Kip Eideberg (keideberg@aem.org).

**Secretary Perdue to Equipment Manufacturers: “You are Essential”**
As part of AEM’s advocacy efforts to educate Congress and the White House about the essential role that agriculture equipment manufacturers play in the country’s food production, and as a result of ongoing collaboration between AEM’s Advocacy Team and the United States Department of Agriculture, Secretary Perdue today released a short video message reaffirming his appreciation for the industry and assurances that agriculture equipment manufacturers are indeed essential. “For all of you out there who make the things that make the things that allow our farmers to continue to produce the great food that they produce - many times you’re not thought of in the food supply chain, but they couldn’t do what they do without you. You’re just as essential as anybody.” Secretary Perdue says in his message to equipment manufacturers. We encourage you to share his message with your employees, as well as suppliers, distributors, and customers.

**DOL Releases Further Guidance on Sick Leave**
The Department of Labor’s Wage and Hour Division (WHD) has released more guidance to provide employees and employers on protections and relief offered by the Families First Coronavirus Response Act (FFCRA) when it goes into effect on April 1, 2020. The Q&A provided by the Department of Labor addresses issues such as the definition of a “health care provider,” and the scope of the small business exemption for purposes of exclusion from the provisions of the Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act, as well as whether public sector employees may take paid family and medical leave.

**CISA Updates Critical Essential Infrastructure Guidance with Added Clarification**

On Saturday, March 28, the Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency issued updated guidance on its list of “Critical Essential Infrastructure.” The new, expanded list, provides additional clarification, provided by over 200 companies, including AEM, and adopts robust list of essential industries. The updated guidance expands the types of industries deemed critical to manufacturing, to include the manufacturing of mining “equipment and other infrastructure necessary for mining production and distribution.” The updated guidance continues the inclusion of companies critical to the supply chain of essential businesses. At AEM’s urging, CISA also enumerated the critical role the landscaping industry plays in protection of public health and public safety.

Of note, the revised guidance ensures certain construction projects to continue to allow for the resiliency of U.S. infrastructure. Now, construction projects related to the energy industry (e.g. pipeline construction), residential & housing industry, and COVID-19 response, are directly allowed to continue operations. AEM continues to work directly with CISA to express the key role all construction projects play in ensuring essential business activity. As not all states have adopted CISA’s guidance, AEM has worked with ARBTA, an industry partner, who has published a report on the status of transportation construction projects by state.

**State Activities**

AEM has been monitoring activities taken by Governors as they continue to issue closure orders and other guidance, and we are in close contact with their staff to make the case that our industry should be deemed “essential.” Today, we have key updates in Kansas, Maryland, North Carolina, Rhode Island, and Virginia. We also have some updates for closure orders in New York.
Kansas
Kansas Governor Laura Kelly issued an order requiring all residents to stay at home and closing all businesses not deemed essential as per the Kansas Essential Function Framework (KEEF). The order and KEEF define the types of essential businesses that mirrors DHS’s CISA guidance but does not adopt the guidance. The Governor’s office notes it developed KEEF with reference to Federal critical function guidelines, and its definitions mirror CISA guidance.

KEEF as a framework for identify critical functions that must continue during a “stay at home” order, and has four main pillars: Connect, Distribute, Manage, and Supply. KEEF lists a number of components of manufacturing, that are allowed to operate, including those involved in:

- Maintaining Supply Chains for Essential Functions and Critical Infrastructure (as defined by DHS)
- Providing and Maintaining Critical Infrastructure, including: constructing or repairing roads; constructing, maintaining, or cleaning buildings; producing or distributing construction materials; maintaining specialized manufacturing or industrial equipment
- Manufacturing Equipment Used for Essential Functions or Critical Infrastructure (as defined by DHS)
- Producing and Providing Agricultural Products and Services - Manufacturing or maintaining agricultural equipment; manufacturing or distributing agricultural supplies such as seeds and chemicals

Businesses who are uncertain about whether they fall within the framework should email KEFF@ks.gov.

Maryland
On March 30, Governor Larry Hogan issued a new Executive Order, requiring all residents to stay at home, effective March 30, at 5:00pm. Governor Hogan had previously ordered all non-essential businesses to fully close effective March 23, 2020, at 5:00pm ET, and that order remains in effect. Governor Hogan’s order adopts the DHS’s CISA guidelines on defining essential businesses, and explicitly included critical manufacturing, both industrial and agriculture, and construction. The Governor’s Chief Legal Counsel recommends issuing essential employees a letter why they are traveling during the stay at home order. For more information, the Governor’s office continued to publish additional guidance on what businesses can continue to operate.

**New York**

New York Governor Andrew Cuomo issued a new order requiring all non-essential businesses to fully telework, with the exemption of businesses deemed essential, by Sunday, March 22, at 8:00pm ET. On March 30, Governor Cuomo extended in-person workforce restrictions until April 15.

**North Carolina**

North Carolina Governor Roy Cooper ordered all residents to stay at home and all non-essential businesses to close, effective March 30 through April 29. The order adopts DHS’s CISA guidance on essential businesses, and allows manufactures to continue to operate. The order also allows manufacturers, distributors, and supply chain companies to continue if they are for critical products and industries. Businesses that remain open must adhere to social distancing requirements. The order also broadly exempts “essential infrastructure” workers, including, but not limited to, construction workers, road, highway, and railroad workers.

The Governor’s office has published a FAQ list, for businesses with additional questions. North Carolina businesses that believe they are essential, may request a designation as an essential business through an online form or by email at Essential.Exemption@ncdor.gov.

**Rhode Island**

Rhode Island Governor Gina Raimondo ordered all residents to stay at home order, and non-essential retail businesses to close, effective March 30 until April 13. The order does not require manufacturers to close, but prohibits any gatherings of more than five people in any public or private space.

**Tennessee**

Tennessee Governor Bill Lee issued an order urging all residents to stay at home, and closing all non-essential businesses from members of the public, effective March 31 through April 14. In an addendum, the Governor’s order adopts the DHS’s CISA guidelines in defining essential businesses. The order also extends an exemption to companies along the supply chain for manufacturing companies, distributors, and other supply chain companies producing and supplying essential products.

**Virginia**

Virginia Governor Ralph Northam issued a new Executive Order, ordering all residents to stay home unless traveling for work, effective March 30 until June 10. The new order keeps in place businesses closures, as previously ordered, and only impacts non-essential retail businesses. Other businesses are allowed to continue to operate so long as they follow CDC requirements on “social distancing,” and adopt telework standards, if possible.

**Canada Update**
This morning, Prime Minister Justin Trudeau announced further details of the wage subsidy that had been previously announced on Friday. If businesses have seen their revenues decrease by 30% or more, they will qualify for wage subsidies for their employees’ salaries. There is no limit for qualification based on the number of employees, and it will apply to non-profit organizations, charities and companies.

The wage subsidy is for 75% of employees’ salaries, on the first $58,700 in earnings. This represents a subsidy of up to $847 per employee per week, available retroactively to March 15 for three months. The Prime Minister stated that further details will be outlined tomorrow by the Minister of Finance, Bill Morneau, and the Minister of Small Business, Export Promotion and International Trade, Mary Ng.

The Minister of National Defence, Harjit Sajjan, announced that the Canadian Forces are prepared to assist with emergency responses required stemming from the COVID-19 outbreak. The Minister stated that there had been no requests from the provinces for assistance so far, however the military has been preparing to deal with eventual requests for assistance.

The federal government also announced that as of today, any Canadian traveller who shows COVID-19 symptoms will be banned from boarding any domestic flights or trains, in an effort to limit the spread of the virus between provinces and cities.

**Alberta**
The province has launched a survey for businesses who wish to assist in the province’s outbreak response efforts, or bid on provincial government contracts for services needed in relation to the outbreak.

**British Columbia**
The province has listed what it considers to be essential businesses. This includes the following categories that suggest that AEM members are to be considered essential businesses:

- **Manufacturing** of goods necessary for the continued and immediate operation of other essential infrastructure and businesses
  - Food cultivation, including:
    - Farming
    - Livestock
    - Aquaculture and fishing
    - Businesses that support the food supply chain
    - Community gardens and subsistence agriculture
  - Food processing, manufacturing, storage and distribution of foods, feed products and beverages
  - Workers essential to maintain or repair equipment in food processing and distribution centres
  - Farming supply, including:
    - Seed
    - Fertilizer
    - Pesticides
    - Farm machinery sales and maintenance
  - Manufacturers and distributors (including service centres and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging, staging and distribution operations
  - Services to support and enable transportation, including highway, road, bridge maintenance and repair
- Businesses that provide materials and services for the operation, maintenance and safety of transportation systems (road, transit, rail, air and marine) including delivery of maintenance services such as clearing snow, response to collisions and completing needed repairs to transportation systems
- Businesses that extract, manufacture, process and distribute goods, products, equipment and materials, including businesses that manufacture inputs to other manufacturers (e.g. primary metal/steel, blow molding, component manufacturers, chemicals, etc. that feed the end-product manufacturer)
- Businesses that ensure global continuity of supply of primary and value-added forestry/silviculture products, for example:
  - Lumber
  - Pulp
  - Paper
  - Wood fuel, etc.
  - Soft-pulp products
- Businesses that ensure global continuity of supply of mining materials and products (e.g. metals such as copper, nickel and gold) and that support supply chains, including:
  - Mining operations, production and processing
  - Mineral exploration and development, including sand, gravel and aggregates
  - Mining supply and services that support supply chains in the mining industry including maintenance of operations, health and safety

**Manitoba**

Premier Brian Pallister today unveiled the province’s list of essential workplaces, with the new rules being in place as of 12:01am. on Wednesday, April 1. All businesses that are not listed in the schedule of critical services that accompanies the order must close between April 1 and April 14. The Premier encouraged businesses and Manitobans to visit EngageMB.ca if they have any questions regarding Manitoba’s emergency measures.

**New Brunswick**

As Premier Blaine Higgs had previously announced on March 24, workers or self-employed people in New Brunswick who have lost their job due to COVID-19 are eligible to receive a one-time income benefit of $900. Applications are available online starting at noon today. The province further announced that Service New Brunswick locations will be closed until Wednesday, April 1, when select service centres will reopen by appointment only. The province has stated that manufacturers are allowed to stay open, however they are expected to reduce in-person sales activities and apply all social distancing and hygiene recommendations.

**Nova Scotia**

Premier Stephen McNeil announced measures of support for businesses and residents of the province. The measures of interest to AEM members include the following:

For businesses:
- The province is encouraging retail and commercial landlords to defer lease payments for the next three months for businesses forced to close due to the public health order. Landlords are not permitted to change locks or seize property of businesses, if they closed directly because of COVID-19 public health orders.
• Restaurants will be allowed to include alcohol purchases with takeout and delivery orders as long as the alcohol cost is not more than three times the value of food ordered, effective March 30.
• Veterinarians will be allowed to provide virtual care, prescription refills and in-patient urgent or emergencies services.

For people:
• Partnering with Telus to provide 100 phones and calling plans to most-vulnerable clients who have no other means of communication
• Investing $200,000 to support transition houses as well as other organizations that serve vulnerable women and children
• Investing $55,000 to support 12 smaller community food banks
• Extending the hours of its toll-free line for income assistance supports soon, including weekends

Ontario
Premier Doug Ford called again on Ontarians to follow public health guidance to prevent the government from having to bring in stricter measures. Over the weekend, Ontario’s Chief Prevention Officer announced updated guidance regarding construction sites to help employers better understand their responsibilities and what is needed to prevent the spread of COVID-19 on the job site.

Prince Edward Island
The province has established a website with a directory of community organizations and groups from across the province who are providing supports to their fellow Islanders in response to COVID-19.

Quebec
Premier Francois Legault announced that in April all businesses, with the exception of gas stations, pharmacies, convenience stores and takeout restaurants, will be closed on Sundays. He framed the announcement as a measure to provide a break for grocery store employees and others who have been placed under strain during the outbreak. The province has launched a website for users to determine what government assistance they may qualify for.

Do you have questions or need to get a hold of AEM’s Advocacy Team? E-mail our Response Ream at responseteam@aem.org with any questions or feedback.

As always, if you have any questions about AEM’s ongoing efforts, need assistance with a specific issue, or would like to share how the unfolding COVID-19 pandemic is impacting your business, please do not hesitate to reach out to me at keideberg@aem.org.

Best,
-Kip