March 26, 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:

“Phase Three” COVID-19 Legislation
Congressional negotiators reached a bipartisan agreement yesterday on a $2 trillion emergency relief package in response to the COVID-19 pandemic. The Senate “phase three” Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748) is the largest U.S. economic rescue package in history. After a last-minute delay by a group of Republican Senators concerned about some of the Unemployment Compensation provisions, the bill passed the upper chamber 96-0. The bill now heads to the House, where it is expected to be considered on Friday. The House had hoped to consider the legislation by unanimous consent, but that requires no objections to the legislation and it is clear that at least some House members plan to object. With several members of Congress and staff either diagnosed with the Coronavirus or showing symptoms, there is hope that lawmakers will not be forced to return to the Capitol and that the House can pass the legislation by voice vote on Friday.

AEM staff have provided a complete analysis of provisions in the bill that could provide relief and support for equipment manufacturers, distributors, suppliers, as well as partners in the agriculture, construction, and utility sectors. The analysis also contains links for AEM members to reference, as these provisions are implemented and executed by the various federal agencies. If you have questions or would like more information about specific provisions in the bill, please contact Kip Eideberg (keideberg@aem.org).

CARES ACT: Key Provisions

Lending Support

Loans to Eligible Businesses: The U.S. Treasury will provide $500 billion in loans and loan guarantees. To be eligible for this program, a company must not otherwise receive adequate economic relief from other provisions of the bill.

- All direct lending must meet the following criteria:
  - Alternative financing is not reasonably available.
  - The loan is sufficiently secured or is made at an interest rate that reflects the risk.
  - The duration is as short as possible, with a maximum term of five years.
  - Borrowers and their affiliates cannot engage in stock buybacks (unless contractually obligated).
  - Borrowers cannot pay dividends until the loan is no longer outstanding or one year after the date of the loan.
  - Borrowers are prohibited from reducing their workforce below March 24, 2020 levels until Sept. 30, 2020.
  - The company must be domiciled in the United States, with a predominantly U.S. employee base.
For businesses critical to national security, their operations must be jeopardized by COVID-19-related losses.

- Until one year after the loan is outstanding, recipients of any direct lending are barred from increasing compensation for an officer or employee whose total compensation exceeds $425,000.
  - Limits on severance packages for these employees are imposed.
  - Executives earning more than $3 million in 2019 compensation may not earn from the $3 million plus 50% of the excess over $3 million.
- Of the $500 billion, $46 billion is set aside for direct lending to specific industries.
  - $25 billion for passenger airlines
  - $4 billion for cargo air carriers
  - $17 billion for businesses important to maintaining national security
  - Via the Federal Reserve, $454 billion could be leveraged to provide potentially up to $4 trillion in financial support.

More information about the role the Federal Reserve is playing to respond to the COVID-19 pandemic is available here.

**Small Business Loans:** $350 billion would be provided for small business loans administered by the Small Business Administration under the new Paycheck Protection Program. This would provide loans of up to $10 million per company; loan size would be dependent on a company’s payroll. For more information about SBA’s emergency loan programs, click here (CARES Act loan programs won’t be included until enactment). Small businesses as defined by the SBA are generally up to 500 employees, but can be up to 1,500 employees depending on the sector; certain sectors are based on revenue.

- The loans are available to companies with no more than 500 employees or that meet the applicable size standard for the industry as provided by the SBA if higher.
- Loans can be forgiven. The amount of the forgiveness is equal to the amounts spent by the borrower during the eight weeks from loan origination on payroll costs (up to $100,000 in wages), mortgage interest, rent or utilities (subject to certain restrictions).
  - The forgiveness amount is reduced by layoffs (though employer may rehire workers to mitigate this reduction) or pay reductions in excess of 25%. Amounts forgiven are not treated as taxable income to the borrower.
- Loan amounts can only be used for payroll, mortgages, rent, insurance premiums and utility payments. Companies could not apply for both an SBA disaster loan and a loan under this program. This program is only in place through Dec. 31, 2020.
- For eligibility purposes, the provision requires lenders to determine whether a business was in operation on Feb. 15, 2020, and has employees, instead of repayment ability.
- Borrowers are not permitted to receive both an SBA economic injury disaster loan and a loan under this new program, unless the disaster loan is unrelated to COVID-19.
- Borrowers must certify that the loan is necessary because of COVID-19, and that the proceeds will be used for payroll and specified other uses.
- Fees for borrowers participating in the program are waived.
- Maximum term is 10 years, and maximum interest rate is capped at 4%.

**Tax Relief**

**Net Operating Loss Carryback:** This provision retroactively allows companies to use tax losses to offset income from prior years. Losses from 2018, 2019 and 2020 may be carried back five years, allowing companies to amend prior-year returns. This provision applies to both corporations and pass-through businesses. Restoring carryback for this period of time would raise current cash for businesses without permanently reducing federal revenue.

**Increase in Allowable Interest Deductions:** The maximum amount of business interest deductions is increased for 2019 and 2020 from 30% of earnings before interest, taxes, depreciation and amortization (EBITDA) to 50% of EBITDA.
Payroll Tax Deferral: This provision allows an employer to defer its share of 2020 payroll tax, paying these amounts over the next two years.

Payment of Tax Refunds: Tax reform imposed a one-time tax on earnings held overseas, which could be paid over eight years. The IRS has taken the position that companies cannot receive refunds until the eight-year period is completed. The bill overturns the IRS position.

Employee Retention Tax Credit: This provision creates a new, temporary refundable payroll tax credit for companies affected by COVID-19 (i.e., with operations suspensions or a significant decline in gross receipts). The maximum credit is $10,000 per employee. The credit amount is based on wages, including health benefits. For businesses with more than 100 employees, only wages paid during a period that services are not provided due to COVID-19 are counted. For companies with fewer than 100 employees, all wages are counted. This credit is for wages paid through the end of 2020.

Corporate Alternative Minimum Tax Credits: This provision allows companies to accelerate recovery of corporate AMT credits.

Qualified Improvement Property: This provision corrects an error in tax reform, allowing companies to write off certain facilities improvements more quickly.

Employee Support

Paid Leave: This provision sets a cap on maximum payments employers will be required to pay for new emergency paid leave requirements. The provision also allows employers to receive an advance tax credit on paid leave rather than having to be reimbursed on the back end. The provision also ensures that federal contractors who are unable to work will continue to be paid.

Unemployment Insurance: This provision provides additional federal funds for workers who are unemployed or underemployed.

Short-Time Work Compensation: (Shared Work/Work Share Programs): The bill provides funding to support short-time compensation programs where employers reduce employee hours instead of laying off workers and the employees with reduced hours receive a pro-rated unemployment benefit. Specifically, 100% of the costs states incur in providing this short-time compensation through Dec. 31, 2020 would be covered. Nearly 30 states currently have programs in operation. This also provides support for states interested in implementing their short-time work compensation program as a result of the COVID-19 pandemic and want to seek reimbursement after the fact. AEM staff actively worked on confirming this provision, citing equipment manufacturers success with these types of programs such as that administered by the state of Washington - https://www.esd.wa.gov/SharedWork.

The U.S. Dept. of Labor has a variety of resources available (and links to state-by-state resources) for AEM members available here.

Individual Relief

Individual Rebate Checks: This provision provides checks of up to $1,200 to single individuals and $2,400 to married couples (increased by $500 per child). Check amounts begin to reduce as income exceeds a threshold amount ($75,000 for individuals/$150,000 for married filers) and are completely eliminated once income reaches $99,000 for individuals/$198,000 for joint filers with no children). Income amounts are based on the taxpayer’s 2018 return.

Distributions from Retirement Plans: This provision waives the 10% penalty for distributions from certain retirement plans. The maximum allowable distribution is $100,000. Individuals can recontribute these amounts
to their plans over a period of up to three years. This provision is applicable to individuals diagnosed with COVID-19, whose spouse or dependents have been diagnosed or who experience adverse financial consequences from the virus.

**Sector Support**

**Agriculture Sector**
- $14 billion in borrowing authority for the Commodity Credit Corporation (CCC). AEM joined a [letter](#) earlier this week to Congressional leadership urging an expansion and replenishment of USDA's borrowing authority under the CCC. This will enable another round of Market Facilitation Payments to help with the cash flow of farmers and ranchers as they deal with challenges presented by the COVID-19 pandemic and ensure they have access to the equipment and related inputs they need.
- $20.5 million to allow for the Rural Business Cooperative Service to make $1 billion in lending authority available for loan guarantee program
- $100 million in grants for the ReConnect Program to provide rural broadband (includes cost of construction, improvement, or acquisition of facilities and equipment needed to provide service in eligible rural areas)
- $25 million for the Distance Learning, Telemedicine, and Broadband program
- $9.5 billion to assist specialty crop producers; producers who support local foods systems such as farmers markets, schools, and restaurants; and livestock producers, including dairy
- $25.06 billion for food and nutrition programs like CNP, SNAP, and the Emergency Food Assistance Program

**Economic Development, Manufacturing Sector Support**
- $1.5 billion for economic development grants to states

**Energy and Water Sector Support**
- $50 million to the Army Corps of Engineers to ensure that operation of Corps projects across the country continue such as U.S. locks and dams, canals, and a wide range of public works programs vital to the transportation of goods such as agricultural commodities.

**Transportation Sector Support**
- $10 billion for the Airport Improvement Program (AIP) to maintain operations at U.S. airports and shore up other available funding for capital projects and programs, including facility construction projects, that are already underway. AEM joined a [letter](#) last week to Congressional leadership urging this additional authorization for airports to mitigate the adverse effects of COVID-19 has had on the aviation industry.
- $56 million for Essential Air Service (EAS)
- $25 billion for Transit Infrastructure Grants
- $1.018 billion for Amtrak
- $6 million for DOT administrative expenses
- $5 million for DOT Inspector General

**AEM Continues to Push for Support for Small Businesses, Including Equipment Dealers**
As states shift their focus from crisis response to protecting small businesses, AEM is working closely with lawmakers in state capitals across the country to secure funding for small businesses, including equipment dealers, impacted by the COVID-19 pandemic. A number of states have created short-term small business loan programs, funded directly by the states, to help keep businesses operating during these difficult times. Many states, through the Small Business Administration’s Disaster Loan Assistant program, also offer low-interest, long-term loans, to help provide small businesses with working capital. For more information on SBA loans, please visit the agency Disaster Loan Assistance website.
AEM Weighs in on Interstate Shipping Guidance
AEM continues to promote the industry's essential designation needs during the COVID-19 crisis. Today, AEM joined the Transportation Intermediaries Association (TIA) in a letter urging the Federal Motor Carrier Safety Administration to work with states to ensure that goods falling into essential categories, as laid out in the Cybersecurity and Infrastructure Security Agency’s Guidance on Essential Critical Infrastructure Workforce, do not face delivery impediments as a result of individual state emergency orders during the COVID-19 crisis.

Further Guidance from U.S. Department of Labor (DOL) on Paid Sick Leave
Employers are required to notify employee of rights under recently enacted legislation. Here is a Q&A DOL’s Wage and Hour Division (WHD) has created to help employers understand these requirements. The DOL also created a poster for employers to fulfil the notice requirements. Finally, the DOL’s Wage and Hours Division released a Field Assistance Bulletin describing the 30-day non-enforcement policy.

AEM Continues to Coordinate with Cybersecurity and Infrastructure Security Agency
AEM participated in a call with the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA). Agency officials encouraged business owners to submit ideas as to how their companies can contribute to the production of hand sanitizers, N-95 respirator masks, surgical masks, other personal protective equipment (PPE), or necessary medical equipment. Any ideas can be submitted to nbeoc@max.gov. The Oct. 1, 2020 deadline for travelers to obtain a driver's license or state identification card that complies with the federal government's REAL ID law has been extended to Oct. 1, 2021. For more information about the REAL ID, please visit the Department of Homeland Security website.

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 Colorado, and Idaho. We also have some updates for closure orders in Georgia, Kentucky, and Montana.

For information on other states please visit: www.aem.org/covid-19-information-and-resources.
Many states have implemented initiatives that halt various economic activities

Business-related state mitigation strategies

AS OF MARCH 26, 2020

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<tr>
<th>Stay-at-home orders/advisories</th>
<th>Closed bars and/or restaurants</th>
<th>Closed non-essential businesses</th>
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Colorado
Colorado Governor Jared Polis issued a stay at home order for all residents, and non-critical businesses to close, effective March 26 until April 11. The order does not apply to critical businesses, and the Department of Health has published the list of critical businesses. The list of critical businesses closely mirrors DHS’s CISA guidance on critical sectors, but does not directly incorporate the federal guidance.

Georgia
Georgia Governor Kemp issued a stay at home order for only vulnerable populations (those with chronic lung conditions, cancer patients or those in a nursing home assisted living facilities), effective March 24 through April 6. The order also restricts businesses to fewer than 10 people if they cannot practice social distancing policies. The order does not provide any other exemptions for businesses to operate.

Idaho
Idaho Governor Brad Little ordered all residents to stay at home, and non-essential businesses to close, effective until April 15. The order provides exemptions for essential businesses as outlined by DHS’s CISA guidance. The Governor’s office published a detailed FAQ and detailed list of essential services that are allowed to continue to operate.

Kentucky
Kentucky Governor Andy Beshear published his order requiring all non-life-sustaining businesses to close, effective March 26, at 8:00pm. The Governor’s order exempts all businesses deemed essential from DHS’s CISA guidance. The order also exempts life-sustaining retail businesses, including agriculture supply and equipment stores, and businesses that supply “life-sustaining businesses.”

Montana
Montana Governor Steve Bullock has announced an order extending of closures of restaurants, and requirement for retail businesses to practice social distancing. AEM is working directly with the Governor’s office to highlight the critical role equipment manufacturers play in Montana.
Canada Activities
Today Prime Minister Justin Trudeau tried to quell concerns raised by Global News’ report that President Donald Trump is considering militarizing the border. He reiterated Canada’s commitment to ensuring that the Canada-U.S. border remain the longest de-militarized border in the world, and open to essential trade. Deputy Prime Minister Chrystia Freeland further clarified that Canada has voiced its clear opposition to any such action on behalf of the U.S., and stated that such an action would be viewed as damaging to the Canada-U.S. relationship.

The Prime Minister used his media availability today to reiterate the government’s focus on ensuring a successful rollout of the Canada Emergency Response Benefit, which should be open for applications the week of April 6.

The federal government also announced that Kirsten Hillman has been appointed as Canada’s Ambassador to the United States. Ms. Hillman has served as Canada’s Acting Ambassador to the United States since August 2019, and was previously the Deputy Ambassador. She has played a key role in negotiating the recent trade agreements Canada has signed onto, including the new NAFTA.

Ontario
Yesterday, Ontario announced its economic and fiscal update in response to the COVID-19 outbreak. The update includes a range of measures to support Ontario’s healthcare system, as well as supports for people and businesses — including some previously announced measures. The following measures are of interest to equipment manufacturers and their employees:

Employers:
- Providing a temporary increase to the Employer Health Tax (EHT) exemption. Eligible private-sector employers with annual payrolls up to $5 million would be exempt from EHT on the first $1 million of total Ontario remuneration in 2020.
- A new Corporate Income Tax Credit, the Regional Opportunities Investment Tax Credit. A 10% refundable Corporate Income Tax credit for capital investments.

Employees:
- Providing a one-time payment of $200 per child up to 12 years of age, and $250 for those with special needs.
- Double the Guaranteed Annual Income System (GAINS) payment for low-income seniors for six months.
- Providing approximately $5.6 billion for electricity cost relief programs in 2020-21 for eligible residential, farm and small business customers.
- Setting electricity prices for residential, farm and small business time-of-use customers at the off-peak price, 24 hours a day for 45 days.
- Providing support to families for their energy bills by expanding eligibility for the Low-income Energy Assistance Program (LEAP) and ensuring that their electricity and natural gas services are not disconnected for nonpayment during the COVID-19 outbreak.

Ontario’s plan also includes measures that will make available tax and other deferrals, including:
- Providing five months of interest and penalty relief for businesses to file and make payments for the majority of provincially administered taxes.
- Deferring the upcoming June 30 quarterly municipal remittance of education property tax to school boards by 90 days, which will provide municipalities the flexibility to provide property tax deferrals to residents and businesses.
- The Workplace Safety and Insurance Board (WSIB) will allow employers to defer payments for up to six months.

Alberta
In Alberta, Premier Jason Kenney has announced that community peace officers, in addition to police, will be able to issue tickets to enforce COVID-19 public health orders. Alberta Health has not recommended that any
business or workplace close, however they recommend they implement mitigations strategies to reduce risk of infection. Alberta is expected to release a list of “essential workplaces” in the coming days, and AEM has contacted the provincial government to advocate for the inclusion of equipment manufacturing under that designation.

British Columbia
In British Columbia, the government announced that community bylaw officers now have the power to enforce the orders that provincial health officers have issued in recent weeks, including the order to stay at least two meters away from others and stop holding gatherings with more than 50 people. They have also announced a range of measures to support people and businesses. The following measures are of interest to equipment manufacturers and their employees:

Employers:
- Extending filing and payment deadlines for most provincial taxes until Sept. 30, 2020.
- Delaying PST changes announced in the 2020 provincial budget.
- Delaying the planned increase of the provincial carbon tax.
- Reducing school tax rates for commercial properties by 50% for the 2020 tax year.

Employees:
- A one-time $1,000 payment to people who have lost income due to COVID-19, with the same eligibility criteria as the Canada Emergency Response Benefit.
- A one-time enhancement to the Climate Action Tax Credit for moderate to low income families.
- Customers of BC Hydro can defer bill payments or arrange for flexible payment plans with no penalty through the COVID-19 Customer Assistance Program. Those experiencing job loss, illness or lost wages due to COVID-19 can access grants up to $600 to pay their hydro bills through the Customer Crisis Fund.
- A new rental supplement will help households by offering up to $500 a month toward their rent. This will be available to renters who are facing financial hardship as a result of the COVID-19 crisis, but do not qualify for existing rental assistance programs.
- Halting evictions, and existing eviction notices, by ensuring a landlord may not issue a new notice to end tenancy for any reason.
- Freezing new annual rent increases during the state of emergency.

British Columbia has also published guidance regarding COVID-19 specific to manufacturing industries through WorkSafeBC. The public health officer has also provided clarifications for manufacturing businesses.

Manitoba
In Manitoba, Premier Brian Pallister has asked the federal government to provide greater healthcare funding and to assist the provinces in borrowing at a lower rate to better finance the response to the outbreak.

Newfoundland and Labrador
In Newfoundland and Labrador, the House of Assembly met today in a special sitting to debate the government’s proposed legislation in response to COVID-19. The measures include the following:
- Providing employees with protections from losing their job if they must take time away from work as a result of COVID-19.
- Ensuring tenants of rental properties cannot be evicted if they have lost income resulting from COVID-19 and not able to pay rent.
- Introducing $200 million in contingency funding to address the impacts of COVID-19 and reduced oil prices.

Prince Edward Island
In Prince Edward Island, the government has introduced an Emergency Relief – Worker Assistance Program, to provide financial support to employers to assist their employed workers who have been impacted by reduced
hours. They have also implemented an Emergency Working Capital Financing program, to provide emergency working capital financing to assist PEI’s small business during this period.

Quebec
In Quebec, Premier François Legault launched a call for those without risk factors to volunteer, as food banks and other community supports strain under the increasing volume of requests for their assistance.

Saskatchewan
In Saskatchewan, following AEM’s engagement with provincial officials and letter to Premier Scott Moe, the province has provided clarification on allowable business services. The list includes production, processing and manufacturing and supply chains of the manufacturing sector.

Visit AEM’s COVID-19 page for our complete set of resources and information.

Do you have questions or need to get a hold of AEM’s Advocacy Team? E-mail our Response Team 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

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