



March 21, 2020

The Honorable Tom Wolf
Governor
Commonwealth of Pennsylvania
508 Main Capitol Building
Harrisburg, PA 17120

Dear Governor Wolf,

On behalf of nearly 1,000 Pennsylvania-based companies represented by our organizations and the nearly 50,000 Pennsylvanians they employ, we thank you for your bold leadership in confronting the COVID-19 health concern. Your recent executive orders and the proactive steps taken by your administration will certainly aid in “flattening the curve” of the infection.

Public works construction, roads and highways, transportation infrastructure, and the materials used for these projects is critical to our ability to deliver medical supplies and services, food and goods, and clean water to the American people, especially as we address this pandemic. In such a time of crisis, maintaining the nation’s critical infrastructure is also essential.

Construction sites are a unique workplace with “social distancing” built in so to avoid as much risk of communicable diseases as possible. They are tightly controlled, with required safety protocols and separation from the general public.

Representatives of the contracting and consultant community have worked tirelessly over the past several days in concert with PennDOT and Turnpike engineering officials to develop additional steps and processes to fortify construction workplaces against the spread of Coronavirus.

We strongly urge you to reclassify *Highway, Street and Bridge Construction as an Industry Group that May Continue Physical Operation*, in particular those contractors currently under a work suspension by the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission. We also urge PennDOT and the Turnpike Commission to rescind suspension of work orders.

All other states in the nation, having balanced the costs and benefits of continuing construction activities, have enabled highway workers and inspection staff to work remotely or with additional safety precautions. That is, Pennsylvania is the only state in the entire country to have stopped state highway construction work. In fact, some states are accelerating projects to take advantage of light travel.

Recent “shelter in place” orders in California, Illinois and New York, have included exemptions for construction personnel and public construction activities have been deemed as essential. Governor Andrew Cuomo’s executive order including the exemption is enclosed with this letter. We encourage this approach to continue the critical work of building and maintaining Pennsylvania’s transportation infrastructure, without creating additional hazards in the fight against Coronavirus.

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The drawbacks to halting construction activities are many; first and foremost, the loss of income for 50,000 Pennsylvanians working in the construction industry. Secondly, the impact to PennDOT's capital program will be devastating in the form of the cost of "delay claims" that PennDOT will be contractually obligated to pay idled construction companies. These claims could stretch into hundreds of millions of dollars. Thirdly, the commonwealth's unemployment compensation fund will be needlessly strained by claims from out-of-work highway workers who could be productive during this time. Fourth, some of our construction industry companies will be needed to respond to highway related emergencies like sinkholes, slides, accident damage to pavements and bridges, etc., plus with the pothole season upon us, materials will be needed by PennDOT, PA Turnpike and municipal crews.

Construction executives, in cooperation with PennDOT and Turnpike officials, have developed a thoughtful, safe and orderly return to work plan. This plan is staggered in three phases keeping virus disease control at the utmost forefront of the plan. We urge you to direct transportation officials to implement this plan to ensure our life-sustaining critical infrastructure needs are met.

In such a time of crisis, using segments of the construction and engineering industry to maintain the state's critical infrastructure is not only essential but vital. The partnerships between all facets of the construction and engineering industries for the health, safety and well-being is paramount for life-sustaining and economic impact for all communities across Pennsylvania.

Sincerely,

Leeann Sherman
American Council of Engineering Companies of Pennsylvania

John Becker
American Concrete Pavement Association – PA Chapter

Robert Latham
Associated Pennsylvania Constructors

James Davis
Contractors Association of Eastern Pennsylvania

Richard Barcaskey
Constructors Association of Western Pennsylvania

Peter Vlahos
Pennsylvania Aggregates and Concrete Association

Charles Goodhart
Pennsylvania Asphalt Pavement Association



State of New York

Executive Chamber

No. 202.6

EXECUTIVE ORDER

Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York;

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to be continue;

WHEREAS, in order to facilitate the most timely and effective response to the COVID 19 emergency disaster, it is critical for New York State to be able to act quickly to gather, coordinate, and deploy goods, services, professionals, and volunteers of all kinds; and

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through April 17, 2020 the following:

- Section three of the Public Officer's Law shall not apply to an individual who is deemed necessary to hire or to engage in a volunteer capacity to provide for an effective and efficient emergency response, for the duration of such emergency;
- Subparagraph (i) of subdivision 1 of section 73 of the Public Officers Law Section shall not apply to any person who is hired, retained, appointed, or who volunteers in any way to assist New York State in its response to the declared emergency;
- Subparagraph 5 of section 73 of the Public Officers Law Section shall not apply to a state officer or employee, or a volunteer who is facilitating contributions or donations to assist New York State in its response to the declared emergency;
- Subparagraph 8 of section 73 of the Public Officers Law Section 73(8) and section 74 of the Public Officer's Law shall not apply to volunteers or contractors who assist New York State in its response, provided that any recusals shall be adhered to if determined necessary by the appointing entity;
- Legislative Law Section 1-M is suspended to the extent that any agency may receive a donation in kind or otherwise, in any amount from any source, provided such donation is made to the State and is administered by a state agency in furtherance of the response effort;
- State Finance Law Section 11, to the extent necessary to facilitate an efficient and effective New York State emergency disaster response, shall not apply to any state agency efforts to further the response to the declared emergency;

NOW, THEREFORE, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of Executive Order through April 17, 2020:

- Effective on March 20 at 8 p.m.: All businesses and not-for-profit entities in the state shall utilize, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize. Each employer shall reduce the in-person workforce at any work locations by 50% no later than March 20 at 8 p.m. Any essential business or entity providing essential services or functions shall not be subject to the in-person restrictions. This includes essential health care operations including research and laboratory services; essential infrastructure including utilities, telecommunication, airports and transportation infrastructure; essential manufacturing, including food processing and pharmaceuticals; essential retail including grocery stores and pharmacies; essential services including trash collection, mail, and shipping services; news media; banks and related financial institutions; providers of basic necessities to economically disadvantaged populations; construction; vendors of essential services necessary to maintain the safety, sanitation and essential operations of residences or other essential businesses; vendors that provide essential services or products, including logistics and technology support, child care and services needed to ensure the continuing operation of government agencies and provide for the health, safety and welfare of the public;
- Any other business may be deemed essential after requesting an opinion from the Empire State Development Corporation, which shall review and grant such request, should it determine that it is in the best interest of the state to have the workforce continue at full capacity in order to properly respond to this disaster. No later than 5 p.m. on March 19, 2020, Empire State Development Corporation shall issue guidance as to which businesses are determined to be essential.



BY THE GOVERNOR

Secretary to the Governor

G I V E N under my hand and the Privy Seal of the
State in the City of Albany this
eighteenth day of March in the year
two thousand twenty.