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## COVID-19 Closure Orders in Delaware, Maryland, New Jersey and Pennsylvania

The Governors of Delaware, Maryland, New Jersey and Pennsylvania have each enacted orders requiring significant social-distancing measures, including the closure of many businesses. The following chart summarizes each State’s orders as they relate to the construction sector. A more-detailed state-by-state summary follows, with exceptions to the general status stated below noted.

State	Construction Sites	Suppliers	Design Professionals	Offices	Timeframe
DE	Open	Open	Open	Open	3/24 - 5/15
MD	Open	Open	Open	Open	3/23 - TBD
NJ	Open	Open	Open but discouraged unless done remotely	Open but discouraged unless done remotely	3/21 - TBD
PA	Closed	Open	Closed	Closed	3/21 - TBD

### DELAWARE

**Summary:** Gov. Carney ordered many Delaware businesses to close and for Delaware residents to shelter in place. However, there is an exception for “essential” businesses and their workforces. The businesses that make up the construction sector are included as “essential” within the meaning of the Order.

**Operative Orders:** Gov. Carney’s [fourth](#), [fifth](#), [sixth](#), [seventh](#), [eighth](#) and [ninth](#) Modifications to his Declaration of a State of Emergency.

**Additional Guidance:** In the Fourth Modification, Gov. Carney drew a distinction between “essential” and “non-essential” businesses, and provided guidance on which fell into which category via a [published chart](#). The chart format mirrors the one used by Pennsylvania for the same purpose; however the content differs.

**Waivers:** The Department of Small Businesses may add to, amend, clarify and grant exceptions and exclusions to the “essential” and “non-essential” designations. However, there is no specific waiver procedure in place.

**Timeframe:** March 24, 2020 – May 15, 2020

### Allowed:

**Work on construction sites.** The Fourth Modification specifically defines as “essential”

“workers who are engaged in the construction of residential, non-residential structures, or infrastructure, and any workers who provide critical maintenance to residential or non-residential structures.”

**Suppliers.** The Fourth Modification specifically defines as “essential” “Businesses that supply materials and hardware to those engaged in the construction of residential or non-residential structures.”

**Design professionals.** The chart lists “Architectural, Engineering, and Related Services” as allowed to be open.

**Most in-person office work.** There is nothing that excludes in-office personnel of a construction company from qualifying as “workers who are engaged in the construction of residential, nonresidential structures, or infrastructure.” Additionally, the Fourth Modification specifically defines as “essential” “Workers involved in activities related to the design and apportionment of residential and non-residential structures.”

#### **Additional Delaware Requirements:**

Though allowed to remain open, there are many additional requirements for “essential” business, all of which are further to the goals of social distancing (see Modifications; links above).

#### **MARYLAND**

**Summary:** Gov. Hogan ordered all “non-essential” businesses to be closed. However, the list of “non-essential” businesses is actually quite small. And the businesses that make up the construction sector are not among the “non-essential” business that must close; they may remain open. However, the governor also entered a stay-at-home order, which does not include a carve-out for workers at “essential” businesses (more on that below).

**Operative Orders:** Gov. Hogan’s Order on [business closures](#) and [stay-at-home order](#).

**Additional Guidance:** Gov. Hogan also posted three “Interpreted Guidance” memos ([here](#), [here](#), and [here](#)). Per the guidance memos, “Commercial and residential construction companies” may remain open, as may business that: manufacture and supply “Earth-moving, mining, agricultural, and construction equipment” or that “rent tools and/or equipment.” “Engineering, surveying, architectural, and interior design firms” are also allowed to remain open.

With regard to the stay-at-home order, the governor’s office [published guidance online](#), which makes clear that “No Maryland resident should be leaving their home **unless it is for an essential job** or for an essential reason, such as obtaining



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food or medicine, seeking urgent medical attention, or for other necessary purposes.” Additionally, essential businesses “must make every effort to scale down their operations in order to reduce the number of required staff, to limit interactions with customers, and to institute telework for as much of the workforce as is practical.”

**Waiver:** There is no published waiver procedure.

**Timeframe:** March 24, 2020 – TBD

#### **Allowed:**

**Work on construction sites.**

**Suppliers.**

**Design professionals.**

**In-person office work.**

#### **NEW JERSEY**

**Summary:** Gov. Murphy ordered closed the “brick-and-mortar premises of all non-essential retail businesses.” This order does not apply outside of the retail sector. Accordingly, any non-retail businesses in the construction sector may remain open.

**Operative Orders:** [Executive Order 107](#).

**Additional Guidance:** There is an online [FAQ](#). It makes clear that non-retail business may continue to operate (“If your business is not a retail business, you may continue to operate . . .”) It also notes, however, that businesses—and explicitly those in the construction sector—“should also limit staff on-site to

the minimal number needed for essential operations.” The FAQ likewise makes clear the governor’s intention—“Simply put, people should not be outside of their home unless they absolutely need to be. For example, professional service firms – such as law firms, accounting firms, etc. – may continue to operate, but must accommodate their employees working from home.”

**Waiver:** Any retail business that believes it should be excused from the Order may request that via a chat feature at [Business.NJ.Gov](#). However, the business must remain closed while that request is pending.

**Timeframe:** March 21, 2020 – TBD

**Allowed:**

**Work on construction sites.** “Construction workers, utility workers [and] repair workers” are all specifically identified by the governor as “examples of employees who need to be physically present at their worksite in order to perform their duties.” However, employers “should make best efforts to reduce staff on-site to the minimal number necessary to ensure that essential operations can continue.” But “when in public, individuals must practice social distancing and stay six feet apart whenever practicable.”

**Suppliers.** “Warehouse workers” are also all specifically identified as “employees who need to be physically present at their worksite in order to perform their duties.” Additionally, the orders explicitly do not apply to “retail functions of mail and delivery stores,” which would tend to emphasize that businesses that provide non-retail mail and delivery services need not close.

**In-person office work that *cannot* be performed remotely.** But employers “should make best efforts to reduce staff on-site to the minimal number necessary to ensure that essential operations can continue.”

**Allowed but Discouraged:**

**In-person office work that can be performed remotely.** Gov. Murphy did not explicitly bar non-retail office work. However, the FAQ suggests strongly that all office work that can be done remotely should be done remotely. Additionally, all New Jersey businesses, including those in the construction sector, “must accommodate their workforce, wherever practicable, for telework or work-from-home arrangements.”

**Design professionals.** See previous paragraph and FAQ (“Simply put, people should not be outside of their home unless

they absolutely need to be. For example, professional service firms – such as law firms, accounting firms, etc. – may continue to operate, but must accommodate their employees working from home.”)

**PENNSYLVANIA**

**Summary:** Gov. Wolf ordered closed all businesses that are “non-life-sustaining.” He followed that with a stay-at-home order for all Pennsylvania residents, with an exception for those who work at a “life sustaining” business. Many businesses that make up the construction sector are not deemed “life sustaining” and, thus, must remain closed. There is an exception for “emergency repairs” and “construction of health care facilities,” which are permitted. Additionally, suppliers are considered “life sustaining” and, thus, may remain open.

**Operative Orders:** Gov. Wolf’s Order closing “[non-life-sustaining](#)” and [stay-at-home Order](#).

**Additional Guidance:** Gov. Wolf provided guidance on which business are deemed “life sustaining” and which are not through a [published memo](#) and [chart](#). The chart mirrors the one used by Delaware for the same purpose. There is also an online [FAQ](#).

**Waiver:** There is an exemption-request process in place. Businesses that are deemed non-life-sustaining may complete a written application, which is available [online](#). All exemption requests are due by 5 P.M. on April 3, 2020.

**Timeframe:** March 23, 2020 – TBD

**Allowed:**

**Suppliers.** “Building material and supplies dealers” are deemed “life sustaining.”

**NOT Allowed:**

**Work on construction sites.** Neither “residential” nor “non-residential” construction sites are permitted to remain open unless they are for the “construction of health care facilities.”

**Design professionals.** “Architectural, engineering, and related services” as well as “specialized design services” are not permitted.

**In-person office work.**