

Governor Carney Shares Frequently Asked Questions on Essential Businesses

All Non-essential businesses ordered closed at 8 a.m. Tuesday

WILMINGTON, Del. – Governor John Carney on Tuesday provided additional guidance from the State to help employers better understand the [fourth](#) and [fifth](#) modifications to his State of Emergency declaration, which ordered Delawareans to stay at home whenever possible and closed all [non-essential businesses](#) in Delaware to help fight the spread of COVID-19. The most frequently asked questions and answers are provided below.

Q: Does the order require that I obtain any paperwork, either as an employer or an employee of an essential business, to clarify that status?

- No, it does not, and no such paperwork is needed. A full list of essential industries can be found [here](#). If your business activity is on that list, your business is permitted to remain open as long as it follows all necessary CDC guidelines for safety at this time.

Q: My employer says our business is essential, do I still need to report to work?

- Staffing questions should be addressed between employers and employees. As long as employers are following

applicable guidelines on both leave and on the recent essential designation, then employees should handle any requests directly with employers.

Q: How do I determine if my business is designated as essential?

- The easiest way is to use the four-digit NAICS code associated with the business. If you are the owner of the business, you can locate your NAICS code by a) looking at your unemployment insurance forms, b) looking at your most recent tax returns, or c) searching Google for your industry followed by the term “NAICS code”.
- If you are not the owner of your business, please contact your manager or other appropriate employment supervisor and ask them for clarification on the business status.

Q: What happens if my business fails to comply with the order, either regarding our status as essential or non-essential, or with following CDC guidelines?

- Failure to follow CDC guidelines will result in closure on an individual firm basis until the State of Emergency is lifted. Businesses who continue to operate even if they have been deemed non-essential will be given an initial grace if their failure to comply was done after a good faith effort to clarify their status, but those who do not comply and knowingly do so will be subject to civil and in some cases criminal penalties.

Q: What if my business has multiple NAICS codes?

- Follow the least restrictive code. If one code is deemed

essential while others are not, the business should be considered essential unless further clarification has been given by the state to you directly or through an industry trade group.

Q: Can I change my NAICS code to a code that is essential?

- The NAICS code that should be used is the NAICS code that the business had for their most recent unemployment and/or tax filings prior to the issuance of the State of Emergency. A business classified as non-essential who changes or adds a NAICS code in order to fall under the essential category will be subject to the same civil and criminal penalties as a company that knowingly fails to comply with the order.

The Division of Small Business asks that employers review the [essential/non-essential list](#) to verify the status of their industry. If they still have questions, businesses should email covid19faq@delaware.gov. To ensure a reply, they are asked to include their NAICS code in the email.

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