

State COVID-19 Lockdowns: What Contractors Operating in “Lockdown” Areas Need to Know

April 2, 2020

As the federal government continues taking steps to mitigate the unfolding COVID-19 public health emergency, state and local governments have started issuing “lockdown” or “stay at home” orders. These orders, among other things, place significant restrictions on or mandate the closure of non-essential businesses. Government contractors with operations in these jurisdictions must understand the scope of applicable restrictions and be prepared to demonstrate that their operations are essential and should continue during the lockdown. Many, but not all, of the states with such orders in place have deemed essential the “federal critical infrastructure sectors” as **defined** by the Department of Homeland Security’s Cybersecurity & Infrastructure Security Agency (CISA), which include the work performed by many government contractors. The Department of Defense has also issued parallel Defense Industrial Base critical infrastructure **guidance**. Read on for further discussion of the impact of these orders on government contractors, best practices, and a state-by-state summary of what has been deemed essential in these orders.

Generally, the state lockdown orders have directed that all entities (businesses and non-profits) utilize telecommuting or work from home procedures to the maximum extent practicable. Where telework is impractical, only essential business or entities are permitted to remain open. The orders have generally included lists of specific categories of entities deemed essential (e.g. healthcare, telecommunications, public safety and security, sanitation, logistics, financial, grocery stores, and national defense, among others). A few have specifically carved out businesses in the defense industrial base. Some states have also established application procedures to be designated as essential for other entities not otherwise covered.

Additionally, some jurisdictions have also restricted local travel with shelter-in-place orders, and others are expected to follow suit as the pandemic continues. The federal government has restricted international air travel, and commercial air travel may become impractical for a period of time as parts of the country shelter in place and airlines are forced to reduce service.

These restrictions may delay or even prevent government contractors from fulfilling their contractual obligations unless they are deemed essential or are authorized for remote work, a circumstance that the Office of Management and Budget has begun to address. In addition to steps we **previously highlighted** that contractors should take to protect themselves contractually from the potential disruptions and delays, contractors should also be proactive in preparing to continue operations under lockdown conditions.

Contractors should immediately begin evaluating all of their operations across the United States to determine whether they are properly considered essential. Where they have operations in a state that has issued a lockdown order that does not clearly cover those operations, contractors should follow instructions to apply for essential status immediately. If they have operations in a state that has not yet issued a lockdown order, they should assume that one will issue and be prepared to apply for essential status, if necessary, immediately. Most states are entertaining exemption applications only by email (even if not explicitly stated in the orders), and considerable delays in processing those applications should be expected.

In addition, contractors should communicate with their contracting officers regarding telework where practicable even if not currently permitted under the contract. If contractor employees are unable to telework, contractors should seek specific written direction from their contracting officers stating that their work and employees are exempted from the applicable lockdown restrictions, even if the business is explicitly covered.

Although lockdown restrictions and enforcement will vary by jurisdiction, some contractors are preparing letters from a senior company official, on company letterhead, for employees to bring with them when traveling to and from work. The letters explain

that the individual works for “Company X,” and that they are supporting a critical function under a government contract. The letters should include as attachments documentation supporting the essential nature of the contractor’s operations, such as state lockdown orders identifying the applicable exception, CISA memoranda, or communication from the contracting officer. Similar documentation should be available at each of the contractor’s business locations within the state, along with copies of the contractor’s pandemic readiness plan, which, at a minimum, should describe the steps the contractor is taking to comply with all Centers for Disease Control and Prevention (CDC) and state health department recommendations for safety. Some contractors, particularly in less densely populated areas, are even reaching out to local law enforcement to make them aware in advance that they will remain open.

We have summarized the relevant provisions of the current lockdown orders that have been issued as of the issuance of this alert, including some of the designated “essential businesses” and whether the orders contain specifics on applying for an exemption. States are continuing to issue lock-down orders and more are expected by the end of the day.

Wiley is actively representing numerous clients who are preparing for lockdown orders in their states, or who are navigating orders that have already issued. Wiley continues to closely monitor the COVID-19 crisis and will update this list as the situation unfolds.

Alabama

- Prohibits all non-work gatherings of 10 persons or more
- Closes all non-essential businesses and beaches
 - Non-essential businesses include entertainment venues; athletic facilities and activities; close-contact service providers; and select retail stores.

Alaska

- Orders residents to stay at home except as necessary to meet critical personal needs or work in critical infrastructure jobs.
- All in-state travel between communities is prohibited unless travel is to support critical infrastructure, or for critical personal needs.
- Closes all non-essential businesses
- Essential services and critical infrastructure include:
 - Healthcare operations
 - Essential infrastructure (CISA list adopted)
 - Financial services sector
 - First responders
 - Essential governmental functions
 - Essential businesses (e.g. grocery stores; food and agriculture; businesses that provide food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals; media; gas stations; hardware stores; plumbers, electricians, etc.; businesses providing mailing and shipping services, educational institutions; laundromats; restaurants serving take-out and delivery; Businesses that supply products needed for people to work from home; Businesses that supply other essential businesses with the support or supplies necessary to operate; Businesses that transport goods to grocery stores; transportation providers; Home-based care for seniors, adults, or children; Residential facilities and shelters; Professional services; and Childcare facilities.)

Arizona

- Instructs individuals to stay at home except for:
 - Participate in essential activities

- Employment/Participation in essential functions
- Utilizing essential businesses
- Certain employment
- Orders individuals to limit their use of public transportation
- Non-essential businesses can continue to operate in activities that can be done remote
- Essential services include:
 - Healthcare and Public Health Operations
 - Human Services Operations
 - Essential Infrastructure Operations
 - Essential Governmental Functions
- Essential Businesses include:
 - Stores that sell groceries and medicine
 - Food, beverage, and agriculture
 - Outdoor recreation activities
 - Organizations that provide charitable and social services
 - Media
 - Gas stations and businesses needed for transportation
 - Financial institutions
 - Hardware and supply stores
 - Critical trades
 - Mail, post, shipping, logistics, delivery, and pick-up services
 - Educational institutions
 - Laundry services
 - Restaurants for consumption off-premises
 - Supplies to work from home
 - Supplies for Essential Businesses and Operations
 - Transportation
 - Home-based care and services
 - Residential facilities and shelters
 - Professional and personal services
 - Day care centers for employees exempted by this Executive Order
 - Manufacture, distribution, and supply chain for critical products and industries
 - Hotels and motels
 - Funeral services

California

- Orders everyone to stay home except to obtain food, provide or obtain care, or travel to an essential job
 - Per the Order of the State Public Health Officer, essential jobs are those needed to maintain continuity of operations of the “federal critical infrastructure sectors” as defined by CISA

- Certain other essential businesses remain exempt from the order: gas stations, pharmacies, grocery stores, convenience stores, banks, and laundry services
- The Office of Emergency Services is ordered to take necessary steps to ensure compliance
- The order does not provide a mechanism for applying to be designated as essential

Colorado

- Directs everyone to stay at home except for Necessary Activities, Minimum Basic Operations, Critical Government Functions, and Critical Businesses.
 - Exceptions include: obtaining food and other household necessities, going to and from work at critical businesses, seeking medical care, caring for dependents or pets, or caring for a vulnerable person in another location.
- Closes all businesses not considered “Critical Businesses”
- Critical Businesses are defined by a separate public health **order**:
 - Healthcare operations
 - Critical infrastructure
 - Critical manufacturing
 - Critical retail
 - Critical services
 - News media
 - Financial institutions
 - Providers of Basic Necessities to Economically Disadvantaged Populations
 - Construction
 - Defense
 - Critical Services Necessary to Maintain the Safety, Sanitation and Critical Operations of Residences or Other Critical Businesses
 - Vendors that Provide Critical Services or Products, Including Logistics and Technology Support, Child Care and Services

Connecticut

- All non-essential in-person businesses and operations must cease
- Essential Businesses, which largely mirror those needed to maintain continuity of operations of the “federal critical infrastructure sectors” as **defined** by CISA, include:
 - essential healthcare operations (e.g. hospitals)
 - essential infrastructure (e.g. utilities including power generation, fuel supply and transmission, public water and wastewater, telecommunications and data centers, airports/airlines transportation infrastructure such as bus, rail, or for-hire vehicles, garages)
 - essential manufacturing (e.g. medical, agricultural, telecommunications, and industries supporting the essential services required to meet national security commitments to the federal government and U.S. military; the defense industrial base, including aerospace, mechanical and software engineers, manufacturing/production workers, aircraft and weapon system mechanics and maintainers)
 - essential retail (e.g. grocery, pharmacy, hardware)
 - essential services (e.g. sanitation, laundry, cleaning, childcare)
 - media
 - financial institutions

- professional services (e.g. legal and accounting)
- social services (e.g. shelters, food banks)
- construction
- defense and national security operations supporting the U.S. Government or a contractor to the US government
- public safety and security
- government support (e.g. logistics, technology support, other support for essential government services)
- Businesses not covered by the order can request an opinion to be deemed essential by the Department of Economic and Community Development

Delaware

- Orders everyone to stay home and prohibits travel except for Essential Activities, which including obtaining necessary health and safety activities, obtaining necessary supplies and services, socially distant recreation, care of others, or to perform work for an Essential Business
- Essential Business includes:
 - Healthcare / Public Health (e.g. hospitals, medical manufacturers, logistics, and research and development, blood and plasma collection, medical cybersecurity, social services, pharmacies, health insurance work that cannot be performed remotely)
 - Law Enforcement and Public Safety
 - Food and Agriculture (e.g. grocery stores and food manufacturers, paper product producers)
 - Energy (e.g. utilities and petroleum and natural gas workers)
 - Water and wastewater
 - Transportation and Logistics (e.g. warehouses, public transit, automotive repair, and air transportation)
 - Public Works (e.g. civil engineers and tradesmen responsible for essential operations of residences)
 - Communications and IT (e.g. communications infrastructure, central offices, media, support for the Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center, data centers, cybersecurity)
 - Community-Based Government Operations and Essential Functions
 - Manufacturing
 - Hazardous Materials
 - Financial Services and Insurance
 - Chemical
 - Defense Industrial Base: businesses supporting the essential services required to meet national security commitments to the federal government and U.S. Military, and companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor- operated and government owned/government-operated facilities.
 - Construction
 - Necessary Product Resellers (e.g. medical supplies, pet stores, hardware)
 - Necessary Retail and Services (e.g. professional services, warehouses, childcare, staffing, retail financial services)
- The order does not provide a mechanism for applying to be designated as essential

Florida

- Orders all persons to limit their movements and personal interactions outside of their home to only those necessary to obtain or provide essential services or conduct essential activities
- Closes all non-essential businesses
- Essential services includes critical infrastructure under the CISA List
- Essential businesses include:
 - Healthcare providers; grocery stores; food cultivation; businesses providing food and services to the economically disadvantaged; media; banks and financial institutions; hardware stores; contractors and other tradesmen; businesses providing mailing and shipping services; private colleges and trade schools to facilitate online learning; laundromats; restaurants for consumption off-site; businesses supplying office products and other essential businesses with support; businesses that ship and deliver groceries; transportation; home-based care; assisted living facilities; professional services; landscaping and pool care businesses; childcare facilities enabling employees exempted from the order to work; airport, seaport or government facility; pet supply stores; logistics providers; telecommunications providers; provision of propane or natural gas; office space needed for the essential businesses; open construction sites; architectural, engineering, or land survey services; factories, manufacturing facilities, bottling plant or industrial uses; waste management services; and any business that is interacting with customers solely electronically.

Hawaii

- Orders everyone “to stay at home or in their place of residence except as necessary to maintain continuity of operations” during the COVID-19 pandemic.
 - Prohibits any gathering more than 10 people.
- Order ceases all non-essential businesses.
- The order exempts a long list of “essential businesses or operations,” defines what people can or cannot do in public, and takes into account social distancing requirements, the homeless population, and criminal penalties.
- Essential businesses are anything used to maintain the critical infrastructure identified by CISA and those designated within the order itself:
 - Healthcare services and facilities;
 - Stores that sell groceries and medicine;
 - Food, beverage, cannabis production and agriculture (e.g. food and beverage manufacturing, production, processing, and cultivation; licensed cannabis cultivation centers; and businesses that provide food, shelter, and other necessities of life for animals);
 - Educational institutions;
 - Organizations that provide charitable and social services;
 - Media;
 - Gas stations and businesses needed for transportation;
 - Financial institutions;
 - Hardware and supply stores;
 - Critical trades (e.g. plumbers, electricians, exterminators, cleaning and janitorial staff for commercial and governmental properties, etc.);
 - Mail, post, shipping, logistics, delivery, and pick-up services;
 - Laundry services;
 - Restaurants for consumption off-premises;
 - Supplies to work from home;
 - Supplies for essential businesses and operations;

- Transportation;
- Home-based care and services;
- Residential facilities and shelters;
- Professional services (e.g. legal services, accounting services, insurance services, real estate services);
- Child care services for employees exempted by this Order;
- Manufacture, distribution, and supply chain for critical products and industries;
- Critical labor union functions;
- Hotels and motels;
- Funeral services; and
- Government functions.

Idaho

- Requires residents to stay and work from home as much as possible while ensuring all essential services
- Prohibits nonessential travel and gatherings of any size
- Mandates that businesses and government offices cease “nonessential operations at physical locations”
- Essential businesses include:
 - Healthcare operations and essential infrastructure
 - Grocery stores
 - Food cultivation and production
 - Veterinary services
 - Residential and home-based care
 - Pharmacies
 - Hardware stores
 - Gas stations
 - Laundromats
 - Financial institutions (including banks, credit unions, and insurance companies)
 - Essential state and local government functions
 - Limited child care for essential workers
 - Contractors
 - Infrastructure
 - Public safety (including emergency responders)
 - Hotels/motels
 - Maintenance (including electricians, plumbers, utility services, and mechanics)
 - Media

Illinois

- Gatherings of more than 10 are prohibited
- All non-essential in-person businesses and operations must cease
- Orders everyone to stay home and prohibits travel except for Essential Activities, Essential Government Functions, or to operate Essential Businesses and Operations

- Essential Activities, including obtaining necessary health and safety activities, obtaining necessary supplies and services, socially distant recreation, care of others
- Healthcare and Public Health Operations, including hospitals, medical manufacturers, logistics, and research and development
- Essential Government Functions, including public safety, courts, military, housing and shelter
- Essential Businesses and Operations, including:
 - grocery
 - charitable social services
 - media
 - gas stations and transportation infrastructure
 - financial institutions
 - hardware and supply stores
 - construction essential for residences, Essential Activities, and Essential Businesses and Operations
 - mail and package services
 - educational institutions providing distance learning, critical research, or other essential functions
 - manufacturing, distribution, and supply chain of essential supplies, including agriculture and food processing
 - professional services (legal, accounting, real estate, insurance)
- The order does not provide a mechanism for applying to be designated as essential

Indiana

- Order calls for all individuals to stay at home except for essential activities, essential government functions, or to participate in essential business and operations.
 - Prohibits any gathering larger than 10 people.
 - Only permits essential travel but allows for public transportation to still function using social distancing requirements.
- Ceases all nonessential businesses.
- Essential businesses include Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Functions, and Essential Infrastructure, as well as:
 - CISA List;
 - Stores selling groceries and medicine;
 - Food, beverage, and agriculture;
 - Organizations providing charitable and social services;
 - Religious entities (provided it adheres to CDC’s guidance on social gatherings);
 - Media;
 - Gas stations and businesses needed for transportation;
 - Financial and insurance institutions;
 - Hardware and supply stores;
 - Critical trades;
 - Mail, post, shipping, logistics, delivery, and pick-up services;
 - Educational institutions;
 - Laundry services;

- Restaurants for Consumption Off-Premises;
- Supplies to work from home;
- Supplies for essential businesses and operations;
- Transportation;
- Home-based care and services;
- Residential facilities and shelters;
- Professional services;
- Manufacture, distribution, and supply chain for critical products and industries;
- Critical labor union functions;
- Hotels and motels; and
- Funeral services

Kansas

- Directs residents to stay in their homes unless performing an essential activity—which includes:
 - Obtaining food, medicine and other household necessities;
 - Going to and from work at a business or organization performing an essential function as identified in the Kansas Essential Function Framework (based off of the CISA list);
 - Seeking medical care;
 - Caring for children, family members or pets, or caring for a vulnerable person in another location;
 - Engaging in an outdoor activity, provided individuals maintain a distance of six feet from one another and abide by the 10-person limitation on gathering size.
- Order lists multiple pages of essential businesses under four functional areas: Connect, Distribute, Manage, and Supply

Kentucky

- Ordered all nonessential retailers to close within about 24 hours and mandated all elective medical procedures end.
- Life-sustaining retail businesses that will stay open include grocery stores, pharmacies, banks, hardware stores, gas stations, and other businesses that provide staple goods.
- Mandated that entertainment, sporting goods, clothing, shoe, jewelry and furniture stores, florists, bookstores, and auto dealers close.
 - Non-essential retail businesses can still fill phone and online orders through curbside services or delivery.
- Retail businesses that remain open must follow, to the fullest extent practicable, social distancing and hygiene guidance from the CDC and the Kentucky Department for Public Health.
- Failure to follow the order could subject a business to closure.

Louisiana

- Gatherings of more than 10 are prohibited
- All state offices are closed to the public
- Orders everyone to stay home and prohibits travel except for Essential Activities, which include:
 - Obtaining food, medicine, or other essential supplies
 - Obtaining non-elective medical care

- Travel to essential jobs, defined as those needed to maintain continuity of operations of the “federal critical infrastructure sectors” as defined by CISA, in addition to those jobs necessary to provide the other Essential Activities in the order
- Travel to visit relatives, to places of worship, or to engage in outdoor activities
- The order does not provide a mechanism for applying to be designated as essential

Maine

- Orders individuals to stay home except:
 - To conduct or participate in Essential Activities
 - Workers at Essential Businesses and Operations
 - Workers at Non-Essential Businesses to engage in minimal operations or delivery of goods
- Limits in-store gatherings based on square footage
- All non-essential businesses must cease on site operations
- Essential businesses and operations include:
 - CISA List
 - Food processing and agriculture; fishing and aquaculture; industrial manufacturing; construction and maintenance of essential infrastructure; trash collection and transfer stations; grocery and household goods; forest products; essential home repair, hardware and auto repair; pharmacy and other medical, psychiatric, and long-term care facilities; group homes and residential treatment facilities; biomedical, life science, behavioral health, health care, dental care, and long-term services and supports providers and organizations; child care providers; post offices and shipping outlets; banks and credit unions; gas stations and laundromats; veterinary clinics, animal welfare and animal feed and supply stores; truck delivery and distribution of goods; public transportation; legal, business, professional, environmental permitting and insurance services; hotel and commercial lodging; and all utilities.

Maryland

- Orders all residents to stay in their homes except to conduct or participate in essential activities or to work at an essential business
- Essential activities include:
 - Obtaining necessary supplies or services for one’s self, family, household members, pets, or livestock;
 - Engaging in activities essential for the health and safety of one’s self, family, household members, pets, or livestock;
 - Caring for a family member, friend, pet, or livestock in another household or location;
 - Traveling to and from an educational institution for purposes of receiving meals or instructional materials for distance learning;
 - Engaging in outdoor exercise activities but only in compliance with applicable social distancing guidance;
 - Travel required by a law enforcement officer or court order; or
 - Traveling to and from a federal, State, or local government building for a necessary purpose.
- Order calls for the closure of non-essential businesses and bans any gathering of more than 10 people
- Order excludes:
 - Critical infrastructure sectors identified by CISA
 - Federal, state or local government unit, building, or facility
 - Media
 - Any non-profit organizations or facilities providing essential services to low-income persons

Massachusetts

- Gatherings of more than 10 are prohibited
- All non-essential in-person businesses and operations must cease
- Essential Business includes those needed to maintain continuity of operations of the “federal critical infrastructure sectors” as **defined** by CISA including:
 - Healthcare / Public Health (e.g. hospitals, medical manufacturers, logistics, and research and development, blood and plasma collection, medical cybersecurity, social services, pharmacies, health insurance work that cannot be performed remotely)
 - Law Enforcement and Public Safety
 - Food and Agriculture (e.g. grocery stores and food manufacturers, paper product producers)
 - Energy (e.g. utilities and petroleum and natural gas workers)
 - Water and wastewater
 - Transportation and Logistics (e.g. warehouses, public transit, automotive repair, and air transportation)
 - Public Works (e.g. civil engineers and tradesmen responsible for essential operations of residences)
 - Communications and IT (e.g. communications infrastructure, central offices, media, support for the Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center, data centers, cybersecurity)
 - Community-Based Government Operations and Essential Functions
 - Critical Manufacturing (e.g. medical supply chains, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base)
 - Hazardous Materials
 - Financial Services and Insurance
 - Chemical
 - Defense Industrial Base: businesses supporting the essential services required to meet national security commitments to the federal government and U.S. Military, and companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government owned/government-operated facilities.
 - Construction
 - Necessary Product Resellers (e.g. medical supplies, pet stores, hardware)
- Businesses not covered by the order may request designation [here](#).

Michigan

- Order prohibits in-person work that is not necessary to sustain or protect life
- Order calls for all individuals to stay at home except:
 - To engage in outdoor activity with remaining at least six feet from people from outside the individual’s household;
 - To perform their jobs as critical infrastructure workers after being so designated by their employers;
 - To conduct minimum basic operations after being designated to perform such work by their employers;
 - To perform necessary government activities;
 - To perform tasks that are necessary to their health and safety, or to the health and safety of their family or household members (including pets);

- To obtain necessary services or supplies for themselves, their family or household members, and their vehicles. *Individuals must secure such services or supplies via delivery to the maximum extent possible;*
- To care for a family member or a family member’s pet in another household;
- To care for minors, dependents, the elderly, persons with disabilities, or other vulnerable persons;
- To visit an individual under the care of a health care facility, residential care facility, or congregate care facility, to the extent otherwise permitted;
- To attend legal proceedings or hearings for essential or emergency purposes as ordered by a court;
- To work or volunteer for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
- Critical infrastructure is considered that described by CISA. In addition:
 - Child care workers who need to serve critical infrastructure workers;
 - Workers at designated suppliers and distribution centers;
 - Workers in the insurance industry;
 - Workers and volunteers for businesses or operations providing food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities;
 - Workers performing critical labor union functions.

Minnesota

- Orders everyone to stay home except to engage in the designated Activities and Critical Sector work
 - Activities include: Relocation to ensure safety; Health and safety activities; Outdoor activities; Necessary supplies and services; Essential intrastate and interstate travel; Care of others; Displacement; and Tribal Activities & Land.
- Critical sectors include:
 - CISA list; Healthcare and public health; Law enforcement, public safety, and first responders; Food and agriculture; Energy; Water and wastewater; Transportation and logistics; Public Works; Communications and information technology; Other community-based government operations and essential functions; Critical manufacturing; Hazardous materials; Financial services; Chemical; Defense industrial base; Tribal Governments; The Judicial Branch; The Executive Branch; Executive Constitutional Offices; The Legislative Branch; Federal Employees; National Guard; Faith leaders and workers; Education; Construction and critical trade; Child care providers; Hotels, residential facilities, and shelters; Shelters for displaced individuals; Charitable and social services organizations; Legal service; Notaries; Critical Labor Union Function; Laundry services; Animal shelters and veterinarians; Real Estate Transactions; and Essential Supply Stores

Mississippi

- Issued a shelter in place order
 - Individuals may leave residence for essential activities and essential travel
- Ceases all non-essential businesses and operations except minimum operations
- Essential businesses include
 - Essential Government Functions; Essential Healthcare Operations; Essential Infrastructure; Essential Manufacturing; Agriculture and Farming; Essential Retail (e.g. grocery stores); Media; Professional services; Providers of Basic Necessities to the Economically Disadvantaged; Construction and Construction Related Services; Maintain Safety and Sanitation; Essential Vendors (e.g. Logistics and technology support, child care programs and services, medical waste disposal and hazardous waste disposal); Religious Entities not exceeding 10 people; Financial services; Defense industrial base; and CISA list

Montana

- Orders individuals to stay at home except for essential activities or to operate essential businesses and operations
- Closes all non-essential businesses and operations
- Prohibits gatherings of all sizes and limits travel to essential travel or travel for essential activities
- Essential businesses include:
 - CISA List
 - Stores that sell groceries and medicine
 - Food and beverage production and agriculture
 - Organizations that provide charitable and social services
 - Media
 - Gas stations and businesses needed for transportation
 - Financial and real estate services and institutions
 - Hardware and supply stores
 - Critical trades
 - Mail, post, shipping, logistics, delivery, and pick-up services
 - Educational institutions
 - Laundry services
 - Restaurants for consumption off-premises
 - Supplies to work from home
 - Supplies for essential businesses and operations
 - Transportation
 - Home-based care and services
 - Residential facilities and shelters
 - Professional services
 - Manufacture, distribution, and supply chain for critical products and industries
 - Critical labor union functions
 - Hotels and motels
 - Funeral services

Nevada

- All non-essential in-person businesses and operations must cease
- Essential businesses included in the order:
 - Health care providers
 - Grocery stores, convenience stores, pharmacies, and cannabis delivery dispensaries
 - Financial institutions
 - Security services
 - Gas stations
 - Construction, mining, manufacturing and infrastructure operations

- Those needed to maintain continuity of operations of the “federal critical infrastructure sectors” as defined by CISA, in addition to those jobs necessary to provide the other Essential Activities in the order
- The order does not provide a mechanism for applying to be designated as essential

New Hampshire

- Directs everyone to stay at home except for essentials
- Directs all non-essential businesses that haven’t already closed to end “in-person and public-interacting operations”
- Closes all beaches and prohibits all gatherings with more than 10 individuals
- List of industry sectors providing essential services include:
 - Law Enforcement, Public Safety, First Responders
 - Food and Agriculture
 - Health Care/Public Health/Human Services
 - Electricity industry
 - Petroleum workers
 - Natural and propane gas workers
 - Steam workers
 - Waste and Wastewater
 - Transportation and Logistics
 - Public Works
 - Communications
 - Information Technology
 - Other Community-Based Essential Functions
 - Manufacturing
 - Hazardous Materials
 - Financial Services
 - Chemical
 - Defense Industrial Base

New Jersey

- Orders everyone to stay home except to obtain food, goods, or services from an essential retail business; to provide or obtain care, safety, or social services; for religious, political, or educational reasons; or to travel to an essential job
- Telework ordered wherever practicable
- All gatherings are cancelled
- Travel using public transportation strongly discouraged
- All non-essential business closed, which does not include the following essential businesses and essential employees:
 - Healthcare facilities
 - Ancillary stores within healthcare facilities
 - Pharmacies, medical marijuana dispensaries, and medical supply stores
 - Grocery stores, including gas stations, convenience stores, and liquor stores
 - Hardware and home improvement stores
 - Banks and other financial institutions

- Car dealerships, but only for auto maintenance and repair, and auto mechanics
- Printing and office supply shops
- Mail and delivery stores
- Cashiers or store clerks at essential retail
- Construction workers
- Utility workers
- Repair workers
- Warehouse workers
- Lab researchers
- Information technology maintenance workers
- Janitorial and custodial staff
- Certain administrative staff
- The Order also exempts public safety, media, essential social services, operations of the federal government or the movement of federal officials acting in their official capacity
- The State Director of Emergency Management has the authority to make additions, amendments, clarifications, exceptions, and exclusions

New Mexico

- Instructs all individuals to stay home except for outings essential to health, safety, and welfare
- Prohibits all gatherings of five or more people
- Order ceases all non-essential businesses and essential businesses should minimize their operations and staff to the greatest extent possible
- “Essential business” means any business or non-profit entity falling within one or more of the following categories:
 - Health care operations; Homeless shelters, food banks, and other services providing care to indigent or needy populations; Childcare facilities necessary to provide services to those workers employed by essential businesses and essential non-profit entities; Grocery stores; Farms, ranches and other food cultivation; All facilities used by law enforcement personnel, first responders, firefighters, emergency management personnel, and dispatch operators; Infrastructure operations; Manufacturing operations; Services necessary to maintain the safety and sanitation of residences or essential businesses; Media services; Gas stations; Hardware stores; Laundromats and dry cleaner services; Utilities; Funeral homes, crematoriums, and cemeteries; Banks, credit unions, insurance providers, payroll services, brokerage services, and investment management firms; Real estate services; Businesses providing mailing and shipping services; Laboratories and defense and national security-related operations supporting the United States government or a contractor to the United States government; Restaurants, but only for delivery or carry out and local breweries or distillers but only for carry out; Professional services; and Logistics and businesses that store, ship, or deliver groceries, food, goods, or services directly to residences or retailers.

New York

- Non-essential gatherings of any size for any reason banned
- All non-essential business must shut down in-office functions
- Applies to business lines: if part of the business is essential then ***only*** that part of the business is exempt
- Categories of exempt businesses provided in New York’s guidance to Executive Order 202 include:
 - essential healthcare operations (e.g. hospitals)

- essential infrastructure (e.g. utilities including power generation, fuel supply and transmission, public water and wastewater, telecommunications and data centers, airports/airlines transportation infrastructure such as bus, rail, or for-hire vehicles, garages)
- essential manufacturing (e.g. medical, agricultural, telecommunications)
- essential retail (e.g. grocery, pharmacy, hardware)
- essential services (sanitation, laundry, cleaning, childcare)
- media
- financial institutions
- social services (e.g. shelters, food banks)
- construction
- defense and national security operations supporting the U.S. Government or a contractor to the U.S. Government
- public safety and security
- government support (e.g. logistics, technology support, other support for essential government services)
- single occupant businesses (e.g. gas stations)
- An application process has been established to request designation as essential for business not listed in the order. The application requires a description of the business at the location seeking the designation and must be submitted under penalty of perjury.

North Carolina

- Orders people to stay at home for 30 days
- Prohibits gatherings of more than 10 people
- Only permits leaving home and traveling for essential activities
- Ceases all operations of non-essential businesses, not including minimum basic operations and working from home
- Provides for essential businesses to continue to operate while prioritizing social distancing measures—including:
 - CISA List
 - Restaurants that provide take-out, drive-thru, or delivery
 - Grocery stores
 - ABC stores and beer and wine stores
 - Doctors and other healthcare providers
 - Pharmacies
 - Hardware stores
 - Post offices
 - Office supply stores
 - Gas stations and convenience stores
 - Veterinarians and pet supply stores
 - Hotels, airlines, buses, taxis, and rideshare services
 - Places of worship

Ohio

- Orders everyone to stay home and prohibits travel except for Essential Activities, Health Care and Public Health Operations, Human Services Operations, Essential Infrastructure, Essential Government Functions, or to operate Essential Businesses and Operations

- Essential Activities: obtaining necessary health and safety activities, obtaining necessary supplies and services, socially distant recreation, care of others
- Healthcare and Public Health Operations: includes hospitals, medical manufacturers, logistics, and research and development
- Human Services Operations: includes homeless shelters and foodbanks
- Essential Infrastructure: including construction, food production and distribution, storage facilities, utilities, sanitation, telecommunications, and cybersecurity operations
- Essential Government Functions: public safety, courts, military, housing and shelter
- Essential Businesses and Operations:
 - those needed to maintain continuity of operations of the “federal critical infrastructure sectors” as defined by CISA,
 - stores selling groceries and pharmacies
 - charitable social services
 - media and First Amendment protected speech
 - gas stations and transportation infrastructure
 - financial institutions
 - hardware and supply stores
 - construction essential for residences, Essential Activities, and Essential Businesses and Operations
 - mail and package services
 - educational institutions providing distance learning, critical research, or other essential functions
 - manufacturing, distribution, and supply chain of essential supplies, including agriculture and food processing
 - professional services (legal, accounting, real estate, insurance)
- The order does not provide a mechanism for applying to be designated as essential

Oregon

- Orders everyone to stay home to the maximum extent possible
 - Prohibits all nonessential social and recreational gatherings, regardless of size
 - Can go outside for recreational activities as long as maintaining social distancing
- Orders closing of all retail businesses in which close personal contact is difficult to avoid, such as barber shops, arcades, gyms, and theaters.
- Businesses that are not closed by the order must implement social distancing policies in order to remain open
 - Focuses on listing which businesses must close instead of defining businesses that can stay open

Pennsylvania

- Gatherings of more than 10 encouraged to be postponed
- Freedom to travel remains, but residents encouraged to avoid nonessential travel
- All “non-life sustaining businesses” must close in-person locations, except gas stations, food retailers, and transportation companies
 - - The Order includes an **attachment** of those industries deemed to be “life sustaining”
 - **List of life-sustaining businesses** is intended to closely reflect list of businesses CISA defined as needed to maintain continuity of operations of the “federal critical infrastructure sectors”

- Enforcement actions will be taken against businesses that do not comply
- Waiver applications can be submitted requiring a statement of why the business is “life-sustaining,” what plans are in place to mitigate COVID-19, and how many employees will be working at the requested waiver location

Rhode Island

- Requires residents to stay home unless traveling to work, traveling for medical treatment, exercising, or obtaining necessities
- Prohibits gatherings of more than five people
- Closes all non-critical retail businesses in-person operations
- Critical retail businesses include, but are not limited to, food and beverage stores (e.g., supermarkets, liquor, specialty food, and convenience stores, farmers' markets, food banks and pantries), pharmacies and medical supply stores, compassion centers, pet supply stores, printing shops, mail and delivery stores and operations, gas stations, laundromats, electronics and telecommunications stores, office supply, industrial and agricultural/seafood equipment and supply stores, hardware stores, funeral homes, auto repair and supply, banks and credit unions, firearms stores, healthcare and public safety professional uniform stores, and other stores and businesses identified as critical by the Department of Business Regulation.

Vermont

- Orders everyone to stay at home
 - Leaving only for essential reasons such as: personal safety; groceries or medicine; curbside pick-up of goods, meals, or beverages; medical care; exercise; care of others; and work, as set forth further below. Vermonters shall significantly restrict normal activities outside the home or place of residence, consistent with CDC guidance, to help stop the spread of the virus.
- Closes all businesses not considered critical to public health and safety, as well as economic and national security shall remain in operation
- Critical businesses include:
 - Health care operations; law enforcement; critical infrastructure; construction; critical manufacturing; retail serving basic human needs; fuel products and supply; hardware stores; transportation and agriculture sectors; trash collection; agriculture and farms; lodging; mailing and shipping; news media; banks and related financial institutions; providers of necessities and services to economically disadvantaged populations; and other vendors of technical, security, logistics, custodial, and equipment repair and maintenance services.

Virginia

- Issues a stay-at-home order that allows people to leave their homes to obtain food, exercise, supplies, or medical care
- Closes Virginia's beaches to everything but exercising and fishing. Closes campgrounds.
- Prohibits all public and private in person gatherings of 10 or more individuals
- Closes all public access to recreational and entertainment businesses
- Closes all businesses that cannot adhere to the 10 patron limit
 - Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets may continue to offer delivery and take-out services.
- Essential retail businesses may remain open during their normal business hours. Such businesses are:
 - Grocery stores, pharmacies, and other retailers that sell food and beverage products or pharmacy products, including dollar stores, and department stores with grocery or pharmacy operations;
 - Medical, laboratory, and vision supply retailers;
 - Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;

- Automotive parts, accessories, and tire retailers as well as automotive repair facilities;
- Home improvement, hardware, building material, and building supply retailers;
- Lawn and garden equipment retailers;
- Beer, wine, and liquor stores;
- Retail functions of gas stations and convenience stores;
- Retail located within healthcare facilities;
- Banks and other financial institutions with retail functions;
- Pet and feed stores;
- Printing and office supply stores; and
- Laundromats and dry cleaners.

Washington

- Prohibits anyone from leaving their home or place of residence except: (1) to conduct or participate in essential activities, and/or (2) for employment in essential business services
- Closes all non-essential business and all essential businesses are encouraged to remain open and maintain operations, but must establish and implement social distancing and sanitation measures
- Essential activities permitted are limited to the following:
 - Obtaining necessary supplies and services for family or household members and pets.
 - Engaging in activities essential for the health and safety of family, household members and pets.
 - Caring for a family member, friend, or pet in another household or residence, and to transport a family member, friend, or their pet for essential health and safety activities, and to obtain necessary supplies and services.
 - Engaging in outdoor exercise activities but only if appropriate social distancing practices are used.
- Essential businesses are in the following sector:
 - Healthcare/public health
 - Emergency services sector
 - Food and agriculture
 - Energy
 - Water and wastewater
 - Transportation and logistics
 - Communications and IT
 - Other community-based government operations and essential functions
 - Critical manufacturing
 - Hazardous materials
 - Financial services
 - Chemical
 - Defense industrial base

Washington, DC

- Closes all nonessential businesses
- Prohibits any gatherings larger than 10 people
- Essential businesses, which may remain open, include:

- Healthcare and public health operations
- Essential infrastructure
- Food and household products and services
- Social services providing the necessities of life
- Communications and IT
- Energy and automotive
- Financial services
- Educational institutions
- Transportation and logistics
- Construction and building trades
- Housing and living facilities
- Professional services
- Childcare facilities

West Virginia

- Issues an order to stay-at-home and directs residents to only leave for an essential activity, which includes:
 - Obtaining food, medicine, and similar goods
 - Obtaining non-elective medical care and treatment
 - Going to and from essential workplace
 - Going to and from the home of a family member
 - Going to and from the home of another individual who is entitled to visitation
 - Going to and from a place of worship
 - Engaging in an outdoor activity
- Prohibits any gathering larger than 10 people
- Closes all nonessential businesses and operations
- Essential businesses include:
 - CISA critical infrastructure; Healthcare, public health operations, and health insurance companies; Grocery stores and pharmacies; Food, beverage, and agriculture; Essential governmental functions; Human services organizations and childcare facilities and providers; Essential infrastructure; Coal mining and coal-fired electric generation facilities; Manufacture, distribution, and supply chain for critical products and industries; Transportation and travel related businesses and gas stations; Financial and insurance institutions; Hardware and supply stores; Critical trades; Mail, post, shipping, logistics, delivery, and pick-up services; Religious entities; Educational institutions; Laundry services; Supplies to work from home; Supplies for essential businesses and operations; Home-based care and services; Residential facilities and shelters; Professional services; Media; Hotels and motels; Funeral services

Wisconsin

- Orders all individuals to stay at home except when leaving for the following:
 - Essential activities
 - Essential governmental functions
 - To operate essential businesses and operations
 - To perform non-essential minimum basic operations
 - Essential travel

- Special situations
- Prohibits gatherings of any size
- Closes all non-essential businesses and operations except:
 - Minimum Basic Operations, as defined below, and
 - Any operations consisting exclusively of employees or contractors performing activities at their own home or residences (i.e., working from home).
- Essential businesses include
 - CISA critical infrastructure; Stores that sell groceries and medicine; Food and beverage production, transport and agriculture; Restaurants and bars (as carry out only); Child care settings; Organizations providing charitable and social services; Weddings, funerals, and religious entities complying with 10 or fewer people; Funeral establishments; Media; Gas stations and businesses needed for transportation; Financial institutions and services; Hardware and supplies store; Critical trades; Mail, post, shipping, logistics, delivery, and pick-up; Laundry services; Supplies to work from home; Supplies for essential businesses and operations and essential governmental functions; Transportation; Home-based care and services; Professional services; Manufacture, distribution, and supply chain for critical products and industries; Critical labor union; Hotels and motels; Higher educational institutions; Wisconsin Economic Development Corporation (WEDC) designated businesses

Contact

John R. Prairie
Partner
jprairie@wiley.law
202.719.7167

Richard W. Smith
Partner
rsmith@wiley.law
202.719.7468

Brian Walsh
Partner
bwalsh@wiley.law
202.719.7469

Nicole E. Giles
Associate
ngiles@wiley.law
202.719.4581

George E. Petel
Associate
gpetel@wiley.law
202.719.3759