



March 25, 2020

## M E M O R A N D U M

*To:* Governors, Energy Policy Advisors and State Federal Affairs Representatives  
*From:* Dan Lauf and Alyse Taylor-Anyikire, National Governors Association Center for Best Practices,  
Energy, Infrastructure & Environment Division  
Alex Whitaker, National Governors Association Office of Government Relations  
*Re:* Governor Guidance on the Energy Sector During COVID-19 Response

This memo serves to provide guidance to governors on how they can best support and protect the energy industry during the COVID-19 pandemic. It highlights three areas governors should consider to ensure energy continuity and shares the energy industry response to COVID-19. NGA has been in conversation with the U.S. Department of Energy and the energy industry to collect much of this information.

### **Things Governors Should Consider**

#### **(1) Ensure critical energy infrastructure employees can be identified and credentialed in the event of a shelter in place order**

The U.S. Department of Homeland Security (DHS) issued a [memo](#) providing guidance on who should be classified as “essential” critical infrastructure workers during the COVID-19 pandemic. The list is meant to assist prioritizing activities related to continuity of operations and incident response, including the appropriate movement of critical infrastructure workers within and between jurisdictions. Table 1 in the appendix details the energy sector workers deemed essential from the DHS memo. As of March 24<sup>th</sup>, twenty-eight states have designated “essential businesses”, twenty-four of those states specifically reference the energy industry. Fifteen of the states mention the DHS memo directly and nineteen states make specific references to the energy sector in the text of the declaration. Table 2 in the appendix details how states have handled addressing the energy industry in essential business designations.

Governors can connect with state emergency management agencies to determine how critical energy infrastructure employees are credentialed for travel in other extenuating circumstances like severe storms and tornadoes. There should already be a process in place to issue waiver requests, communicate with state and local authorities, and allow utility crews to move across the state in emergencies. Additionally, governors should coordinate with county and municipal leaders to communicate credentialing and exemptions to ensure that they are incorporating critical energy infrastructure employees into any emergency actions.

If a physical or cyber event or staff shortage affects the reliability of energy systems, utilities may implement their mutual assistance agreements to move employees or equipment across state borders. Coordination with neighboring states to communicate what travel exemptions or credentials are being implemented can facilitate this interstate travel for critical utility employees so they can maintain or restore utility service.

## **(2) Critical infrastructure workers may need priority access to testing, PPE, and cleaning supplies**

As COVID-19 spreads, it will be important to adequately protect critical energy infrastructure facilities that cannot be shuttered or operated remotely. Doing so will include testing potentially exposed employees before returning to work to limit the spread of the virus to critical employees needed to operate the grid. There are a limited number of qualified control room personnel and power plant employees and their roles cannot be completed remotely. If COVID-19 spreads to these facilities, it could seriously undermine the industry's ability to maintain energy continuity. In conversations with NGA, industry representatives indicated that they would like to test these personnel so they can sequester the healthy ones and limit the spread of the virus among this critical community.

The energy sector also maintains multiple types of facilities that will need to remain operational, even in the event of a shelter-in-place order or detection of an infection. These include major generating sites, utility operations centers and natural gas compressor stations. These facilities may require additional cleaning and access to personal protective equipment (PPE). Consideration should also be given to utility personnel who may need to enter residents' homes in the event a problem arises, i.e., a gas leak. Utilities may need to be made aware if an individual at the customer's site has the virus or is otherwise under quarantine so sufficient protective measures can be taken for any utility personnel entering the building. In the event of a shortage of or run on PPE and cleaning supplies, the energy industry may need to be placed on a priority access list to receive these supplies so they can maintain critical operations. Critical infrastructure services territories can be large and cross state boundaries, so providing them a direct line to the state emergency operations center can facilitate accessing PPE in a timely fashion.

## **(3) Waivers for fuel carrier standards and CDL's may be needed to move critical utility supplies**

Utilities may ask governors to request suspension of fuel carrier rules on hours of service or cargo weight so that essential equipment and personnel can be moved as quickly as possible throughout the state or from other states. Other requests might include toll waivers for utility and emergency response crews. The U.S. Department of Transportation's (DOT) Federal Motor Carrier Safety Administration (FMCSA) has already issued an [emergency declaration](#) for COVID-19 exempting motor carriers and drivers providing transporting personnel, equipment, and supplies and otherwise providing direct existence from certain restrictions. Travel for utility equipment and personnel has not been explicitly called out in this declaration.

During an energy emergency, regulatory waivers may be issued to facilitate the movement of crews, movement of personnel, and restoration of power. Temporarily waiving enforcement of certain safety, environmental, or statutory requirements can accelerate response and restoration efforts. DOE maintains a consolidated, categorized library of waivers the Governor can request from the federal government if needed to facilitate energy sector response.

[DOE Energy Waiver Library](#)

NGA's Roadmap, "[Executive Authority During Energy Emergencies](#)" provides in-depth guidance to help governors understand state and federal legal authorities during energy emergencies, identify key decision points and actions that should be taken, and provides guidance on coordination strategies for governors' offices and energy sectors.

## **Updates on Actions the Energy Industry is Taking**

The Electricity Subsector Coordinating Council (ESCC) serves as the principal liaison between the federal government and the electric power industry, with the mission of coordinating efforts to prepare for, and respond to, national-level disasters or threats to critical infrastructure. The ESCC includes electric power

industry CEOs and trade association leaders representing all segments of the industry.

The ESCC developed a [Resource Guide](#) to support electric power industry leaders in making informed localized decisions and to inform the general public about the electric industries response to the pandemic. The ESCC has also formed five “tiger teams” to focus on critical issues and problem solve as issues arise. Those teams are addressing control center continuity, generation facility continuity, supply chain issues, mutual assistance, and ensuring access to critical areas for utility workers. Contact information to reach those team will be made available later this week.

The American Petroleum Institute (API) is the national trade association that represents all aspects of America's oil and natural gas industry. The issued a [Planning Guide](#) for the oil and natural gas industry as well. The American Gas Association (AGA), the national trade association for energy companies that deliver natural gas, also has a [website](#) for their COVID-19 response efforts. The oil and gas industry have been in regular contact with the U.S. Department of Energy and the ESCC to coordinate industry response to COVID-19.

NGA will continue to work with the U.S. Department of Energy and industry trade associations and will update this guidance as needed.

## Appendix

Table 1: Essential Energy Sector Personnel Identified in DHS CISA March 19<sup>th</sup> Memo (Revised 3/23/20)

<b>Essential Energy Sector Personnel Identified in DHS CISA Memo (Revised 3/23/20)</b>
<p><b>Electricity industry:</b></p> <ul style="list-style-type: none"><li>• Workers who maintain, ensure, or restore the generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians</li><li>• Workers needed for safe and secure operations at nuclear generation</li><li>• Workers at generation, transmission, and electric blackstart facilities</li><li>• Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities</li><li>• Mutual assistance personnel</li><li>• IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management</li><li>• Vegetation management crews and traffic workers who support</li><li>• Environmental remediation/monitoring technicians</li><li>• Instrumentation, protection, and control technicians</li></ul>
<p><b>Petroleum workers:</b></p> <ul style="list-style-type: none"><li>• Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport</li><li>• Crude oil storage facilities, pipeline, and marine transport</li><li>• Petroleum refinery facilities</li><li>• Petroleum security operations center employees and workers who support emergency response services</li><li>• Petroleum operations control rooms/centers</li><li>• Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing</li><li>• Onshore and offshore operations for maintenance and emergency response</li><li>• Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them</li></ul>
<p><b>Natural and propane gas workers:</b></p> <ul style="list-style-type: none"><li>• Natural gas transmission and distribution pipelines, including compressor stations</li><li>• Underground storage of natural gas</li><li>• Natural gas processing plants, and those that deal with natural gas liquids</li><li>• Liquefied Natural Gas (LNG) facilities</li><li>• Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls</li><li>• Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation</li><li>• Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls</li><li>• Propane gas service maintenance and restoration, including call centers</li><li>• Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing</li><li>• Propane gas storage, transmission, and distribution centers</li></ul>

**Table 2: State Mentions of the Energy Industry in Essential Business Designations**  
(as of March 24, 2020)

	<b>Jurisdiction</b>	<b>Date Issued</b>	<b>Classifies Energy as Essential</b>	<b>Reference DHS CISA Memo</b>	<b>Direct Energy Industry Reference</b>
1	<a href="#">Arizona</a>	23-Mar-20	Yes	No	“operation and maintenance of utilities including water, sewer and gas; electrical (including power generation, distribution, and production of raw materials); oil and biofuel refining”
2	<a href="#">California</a>	19-Mar-20	Yes	n/a	
3	<a href="#">Connecticut</a>	20-Mar-20	Yes	Yes	“essential infrastructure, including utilities, wastewater and drinking water”
4	<a href="#">Delaware</a> <sup>1</sup>	22-Mar-20	Yes	Yes	Lists out essential energy employees as defined by DHS CISA memo
5	<a href="#">Hawai'i</a>	23-Mar-20	Yes	Yes	
6	<a href="#">Idaho</a> <sup>2</sup>	20-Mar-20	Yes	Yes	"Essential Infrastructure: Gas, electrical, oil refining"
7	<a href="#">Illinois</a>	20-Mar-20	Yes	Yes	
8	<a href="#">Indiana</a>	23-Mar-20	Yes	No	“operation and maintenance of utilities including, for example, water, sewer and gas; electrical (including power generation, distribution, and production of raw materials); oil and biofuel refining”
9	<a href="#">Kansas</a>	24-Mar-20	Yes	Yes	"Generate, distribute and transmit electricity, provide and maintain critical infrastructure, fuel refining and processing fuels"
10	<a href="#">Kentucky</a>	22-Mar-20	No	No	
11	<a href="#">Louisiana</a>	22-Mar-20	Yes	Yes	
12	<a href="#">Maine</a>	18-Mar-20	No	n/a	
13	<a href="#">Maryland</a>	23-Mar-20	Yes	Yes	
14	<a href="#">Massachusetts</a>	23-Mar-20	Yes	Yes <sup>3</sup>	Lists out essential energy employees as defined by DHS memo
15	<a href="#">Michigan</a>	23-Mar-20	Yes	Yes	“Energy sector”
16	<a href="#">Nevada</a>	17-Mar-20	Yes	n/a	"Utilities as defined in NRS Chapter 704"
17	<a href="#">New Jersey</a>	16-Mar-20	Yes	n/a	“Examples of employees who need to be physically present at their work site in order to perform their duties include, ... utility workers”
18	<a href="#">New Mexico</a>	23-Mar-20	Yes	No	"Infrastructure operations including ... gas; electrical; oil drilling; oil refining; natural resources extraction or mining operations; nuclear material research and enrichment;" "Utilities, including their contractors and suppliers, engaged in power generation, fuel supply and transmission, water and wastewater supply;"

<sup>1</sup> Additional [table](#) provided by the state of Delaware highlighting essential businesses

<sup>2</sup> Order is for Blaine County only

<sup>3</sup> Does not mention DHS CISA memo directly but copies text directly from the memo

19	<a href="#">New York</a> <sup>4</sup>	20-Mar-20	Yes	No	“Essential infrastructure including utilities including power generation, fuel supply and transmission”
20	<a href="#">Ohio</a>	22-Mar-20	Yes	Yes	“Essential Infrastructure includes operation and maintenance of utilities, including water, sewer, and gas; electrical (including power generation, distribution, and production of raw materials); oil and biofuel refining”
21	<a href="#">Oregon</a>	23-Mar-20	No	No	
22	<a href="#">Pennsylvania</a> <sup>5</sup>	23-Mar-20	Yes	Yes <sup>6</sup>	"Oil and Gas Extraction; Gasoline Stations; Utilities"
23	<a href="#">U.S. Virgin Islands</a>	23-Mar-20	Yes	No	"Core life services: Refineries, utilities"
24	<a href="#">Vermont</a>	24-Mar-20	Yes	No	"critical infrastructure including utilities"
25	<a href="#">Virginia</a>	23-Mar-20	No	No	
26	<a href="#">Washington</a> <sup>7</sup>	24-Mar-20	Yes	Yes <sup>3</sup>	Lists out essential energy employees as defined by DHS memo
27	<a href="#">West Virginia</a>	23-Mar-20	Yes	Yes	“Essential Infrastructure includes ... operation, maintenance and supply of utilities, including water, sewer, and gas; electrical (including power generation, distribution, and production of raw materials including without limitation coal and natural gas) ... oil and biofuel refining”
28	<a href="#">Wisconsin</a>	24-Mar-20	Yes	Yes	"operation and maintenance of utilities, including water, sewer, gas, and electric (including power generation, distribution, production of raw materials; oil and biofuel refining"

<sup>4</sup> New York’s Additional Guidance on Essential Services <https://www.governor.ny.gov/news/governor-cuomo-issues-guidance-essential-services-under-new-york-state-pause-executive-order>

<sup>5</sup> PA chart listing specific industries deemed essential: <https://www.scribd.com/document/452553026/UPDATED-2-30pm-March-24-2020-Industry-Operation-Guidance>

<sup>6</sup> PA Stay At Home Order: <https://www.governor.pa.gov/wp-content/uploads/2020/03/03.23.20-TWW-COVID-19-Stay-at-Home-Order.pdf>

<sup>7</sup> Washington Executive Order Appendix listing out specific critical infrastructure entities <https://www.governor.wa.gov/sites/default/files/WA%20Essential%20Critical%20Infrastructure%20Workers%20%28Final%29.pdf>