



Many counties and cities in Texas have now joined states such as New Mexico, Louisiana, California, Ohio, West Virginia and others in issuing shelter-in-place orders to flatten the curve of the COVID-19 pandemic. These orders require individuals to shelter at their place of residence and require most non-essential business to cease all activities at facilities. In the coming weeks, we expect many other states, counties and cities to issue similar orders as public officials rush to address the spread of COVID-19. But, businesses and industries deemed “essential” are exempt from many of these orders. There remains some confusion as to what specific businesses in the energy sector are essential and thus exempt from shelter-in-place rules.

ESSENTIAL BUSINESSES ARE EXEMPT FROM SHELTER-IN-PLACE ORDERS

Under most shelter-in-place orders that have been enacted so far, citizens are permitted to leave their residences to perform essential services and to supply essential businesses with the support necessary to operate. Essential businesses in these orders generally include businesses supporting essential critical infrastructure or essential infrastructure. The energy and transportation sectors (which include electricity generation at natural gas, oil or renewable energy power plants, and petroleum/natural gas production, processing and/or transportation) are two of the critical infrastructure sectors identified by the [National Cybersecurity and Infrastructure Agency \(CISA\)](#). The shelter-in-place orders so far have either directly defined essential critical infrastructure by reference to CISA guidelines or have listed specific industries (like energy and transportation) as essential infrastructure. Therefore, businesses involved in the operation and maintenance of upstream production, midstream transportation and downstream refining likely fall into the essential business exceptions.

SERVICE PROVIDERS FOR ESSENTIAL BUSINESSES ARE ALSO LIKELY EXEMPT

Other energy and transportation sector service providers (e.g., landmen, oil field service companies and yes, even lawyers) are also likely exempt under the current shelter-in-place orders. The orders for Texas cities and counties contain broad exceptions for those businesses that support essential businesses by providing the support or supplies necessary for those businesses to operate. But, many orders for other states, as currently drafted, do not contain explicit exceptions for businesses that support or supply other essential businesses. Nevertheless, we believe that exemptions for essential infrastructure sectors will be liberally construed to allow for the continued flow of needed fuel and energy in the coming weeks.

SOCIAL DISTANCING AND WORKING FROM HOME ARE HIGHLY ENCOURAGED

Even those businesses that qualify as essential businesses should adhere to social distancing guidelines as outlined in the shelter-in-place orders. These orders encourage businesses to send non-essential staff home, maximize telecommuting options, and strongly suggest that those personnel required to be on-site maintain a six-foot distance from other individuals, wash their hands with soap and water for at least twenty seconds or use hand sanitizer as often as possible, cover coughs and sneezes with their sleeve or elbow, regularly clean frequently touched surfaces and avoid shaking hands.

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COVID-19: SHELTER-IN-PLACE ORDERS AND THE ENERGY INDUSTRY

by Ethan Wood
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GRAY REED IS HERE TO HELP

For more guidance on whether your business is exempt from these shelter-in-place orders, Gray Reed's energy industry and employment law teams are standing by to help. We have already advised numerous clients on this issue and have prepared authorization letters for essential personnel to carry with them in case they are stopped or questioned in route to an essential business.

Gray Reed is a full-service firm and is committed to helping our clients navigate these uncertain times. We encourage you to visit our [COVID-19 Resource Center](#) for the latest updates on how COVID-19 is affecting your industry and others.

ABOUT THE AUTHOR



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