

# Construction is “Essential” in Louisiana

March 30, 2020

On March 22, 2020, the Governor of Louisiana issued a [“stay-at-home” order](#) in response to the COVID-19 pandemic, and not surprisingly, similar orders are being handed down by leaders across the nation. Under the Louisiana stay-at-home order, all individuals within the state of Louisiana are directed to stay home unless performing an essential activity.

An activity is essential if the purpose is:

1. to obtain food, medicine, and other similar goods necessary for an individual or his family member
2. obtaining non-elective medical care and treatment and other similar vital services for an individual or his family member
3. going to/from one’s workplace to perform a job function necessary to provide goods or services such as for food, medicine, or non-elective medical care
4. as otherwise deemed essential under guidance provided by the [U.S. Department of Homeland Security, Cybersecurity, and Infrastructure Security Agency \(CISA\)](#)

The Louisiana Governor’s Office has included construction as an essential infrastructure business category. This includes but is not limited to

1. Construction required in response to this public health emergency
2. Hospital construction
3. Construction of long-term care facilities
4. Public works construction
5. Housing construction

Construction engineers are also specifically included, as well as building and construction tradesmen and tradeswomen, such as plumbers, electricians, etc. Those businesses that sell, manufacture, or support essential businesses and operations with support or materials necessary to remain open are also categorized as essential.

The Louisiana Governor’s website includes a [fact sheet with additional information](#) regarding what is and what is not deemed “essential infrastructure.”

Per the USA Patriot Act of 2001 (42 U.S.C. 5195c(e)), critical infrastructure includes any “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.” [CISA’s website](#) includes information to determine what is essential, and while this information is not binding, the website provides helpful guidance.

On March 28, 2020, CISA issued a [supplemental memorandum](#) clarifying the critical role of construction in supporting essential infrastructure. The supplemental guidance confirms that construction is deemed essential as it specifically identifies construction and related activities, including the manufacture and delivery of construction supplies and safety equipment, as well as the permitting and inspection of projects. By way of example, construction is found across 25 different parts of the CISA guidelines (versus only 4 prior to the update).

According to CISA, the definition of essential “is appropriately broad to include a wide range of stakeholders who either directly or indirectly enable the functionality of infrastructure systems.” The Louisiana stay-at-home order stays within the spirit of the CISA guidelines, as it also provides that any business not covered by the CISA guidelines and not ordered temporarily closed pursuant to the stay-at-home order “shall reduce operations to continue with minimum contact with members of the public and essential employees, while requiring proper social distancing. Further, the 10-person limitation on gathering size shall apply to such business operations.”

If you have any questions, please do not hesitate to contact the authors or visit our [COVID-19 Resource Center](#).

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