

**No. 20-56357**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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HARVEST ROCK CHURCH, INC.; HARVEST INTERNATIONAL  
MINISTRY, INC., itself and on behalf of its member Churches in California,

Plaintiffs–Appellants

v.

GAVIN NEWSOM,  
in his official capacity as Governor of the State of California,

Defendant–Appellee

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On Appeal from the United States District Court  
for the Central District of California (Los Angeles)  
In Case No. 2:20-cv-06414-JCB-KK before the Honorable Jesus G. Bernal

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**PLAINTIFFS–APPELLANTS’ SECOND SUPPLEMENT TO  
EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL**

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**DISCLOSURE STATEMENT**

Pursuant to Fed. R. App. P. 26.1(a), Plaintiffs–Appellants, Harvest Rock Church, Inc. and Harvest International Ministry, Inc., state they are domestic nonprofit corporations incorporated under the laws of the State of California, neither has a parent corporation, and neither issues stock.

Dated: January 7, 2020

/s/ Daniel J. Schmid

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## LEGAL ARGUMENT

**I. LIKE THE JULY 13 ORDER AND THE AUGUST 28 BLUEPRINT, THE REGIONAL STAY AT HOME ORDER IMPOSES A DISCRIMINATORY TOTAL PROHIBITION ON RELIGIOUS WORSHIP AND VIOLATES *CATHOLIC DIOCESE* AND *CALVARY CHAPEL DAYTON VALLEY*.**

**Every day since July 13, the Governor has imposed a total prohibition on religious worship services while exempting myriad other secular activities. (See 9th Cir. dkt. 3-5 at 185 (banning indoor religious worship services); Dist. Ct. dkt. 58-4 at 2, 15 (prohibiting all indoor worship services in Tier 1 of the Blueprint); Dist. Ct. dkt. 67 at 124 § 2.d (prohibiting all indoor religious worship services)). As of the day this Supplement is filed, nearly all of Appellants’ religious worship services have been completely prohibited in California for 178 days.**

In *Catholic Diocese*, this Court held that New York’s capacity limitations of more than 10 or 25 people were “far more restrictive than any COVID-related regulations that have previously come before the Court.” *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020) [hereinafter *Catholic Diocese*]. See also *Agudath Israel of Am. v. Cuomo*, -- F.3d --, 2020 WL 7691715, at \*8 (2d Cir. Dec. 28, 2020) (enjoining same 10 or 25 person capacity limits as violative of the First Amendment and *Catholic Diocese*). And, in *Calvary Chapel Dayton Valley v. Sisolak*, 982 F.3d 1228 (9th Cir. 2020), the 50-person regulation struck down under *Catholic Diocese* was far less restrictive. 982 F.3d 1228 at 1233 (“**The Supreme**

**Court’s decision in *Roman Catholic Diocese* compels us to reverse the district court.”** (emphasis added)).

Yet, the July 13 Order, Tier 1 of the Blueprint, and the Regional Stay at Home Order—which completely prohibit all indoor religious worship services for 99.9% of Californians—**are far more restrictive than those in *Catholic Diocese***. There can be no more restrictive regulations than a total ban on indoor religious gatherings. Under the Regional Stay at Home Order and Tier 1 of the Blueprint, Appellants are prohibited from gathering for any religious service with any number of people. Astoundingly, the same prohibition applies to any religious gathering in the private homes of Appellants’ congregants, regardless of the size of that small Bible study.

As the Supreme Court has held: “**Neither a state nor the Federal Government can set up a church. . . . Neither can force nor influence a person to go to or to remain away from church against his will . . . .**” *Everson v. Bd. of Educ. of Ewing Twp.*, 330 U.S. 1, 15 (1947) (emphasis added). Both the Regional Stay at Home Order and Tier 1 of Blueprint do what *Everson* said no state is permitted to do. The First Amendment plainly prohibits banning all religious worship services, regardless of the justification. In fact, even the Chief Justice’s dissent in *Catholic Diocese* suggests that imposing a total prohibition on religious worship services is unconstitutional. *Catholic Diocese*, 141 S. Ct. at 75 (Roberts, C.J., dissenting) (“Numerical capacity limits of 10 and 25 people, depending on the

applicable zone, do seem unduly restrictive. **And it may well be that such restrictions violate the Free Exercise Clause.**” (emphasis added)); *id.* (“the challenged restrictions raise serious concerns under the Constitution.”). The IPA should issue as to the Blueprint and the Regional Stay at Home Order, and it should issue today.

**II. THE LESS FAVORABLE TREATMENT DISPARATELY IMPOSED ON RELIGIOUS WORSHIP SERVICES, FOUND UNCONSTITUTIONAL IN *CATHOLIC DIOCESE*, *CALVARY CHAPEL DAYTON VALLEY*, *AUGDATH ISRAEL*, AND *MONCLOVA CHRISTIAN*, ARE ALL PRESENT IN THE REGIONAL STAY AT HOME ORDER.**

In *Catholic Diocese*, the Supreme Court noted that the treatment afforded to other nonreligious gatherings or so-called “essential” businesses mandated the application of strict scrutiny. The Court explicitly mentioned numerous examples of disparate treatment that are equally present here:

In a red zone, while a synagogue or church may not admit more than 10 persons, businesses categorized as “essential” may admit as many people as they wish. And the list of “essential” businesses includes things such as acupuncture facilities, camp grounds, garages, as well as many whose services are not limited to those that can be regarded as essential, such as all **plants manufacturing chemicals and microelectronics and all transportation facilities.**

*Catholic Diocese*, 141 S. Ct. at 66 (emphasis added). Moreover, “[t]he disparate treatment is even more striking in an orange zone. While attendance at houses of worship is limited to 25 persons, even non-essential businesses may decide for themselves how many persons to admit.” *Id.* Much like here, “a large store in



Brooklyn . . . could literally have hundreds of people shopping there on any given day. Yet a nearby church or synagogue would be prohibited from allowing more than 10 or 25 people inside for a worship service.” *Id.* (cleaned up).

Justice Gorsuch elaborated further, explaining that while churches were limited to 10 or 25 people,

the Governor has chosen to impose *no* capacity restrictions on certain businesses he considers “essential.” And it turns out the businesses the Governor considers essential include **hardware stores, acupuncturists, and liquor stores. Bicycle repair shops, certain signage companies, accountants, lawyers, and insurance agents are all essential too.** So, at least according to the Governor, it may be unsafe to go to church, but it is always fine to pick up another bottle of wine, shop for a new bike, or spend the afternoon exploring your distal points and meridians.

*Id.* at 69 (emphasis added) (Gorsuch, J., concurring). Indeed, in New York, “People may gather inside for extended periods in bus stations and airports, in laundromats and banks, in hardware stores and liquor shops.” *Id.*

Justice Kavanaugh similarly noted New York’s disparate treatment of worship, which is equally present here:

New York's restrictions on houses of worship not only are severe, but also are discriminatory. In red and orange zones, houses of worship must adhere to numerical caps of 10 and 25 people, respectively, but those caps do not apply to some secular buildings in the same neighborhoods. **In a red zone, for example, a church or synagogue must adhere to a 10-person attendance cap, while a grocery store, pet store, or big-box store down the street does not face the same restriction. In an orange zone, the discrimination against religion is even starker: Essential businesses and many non-essential businesses are subject to no attendance caps at all.**

*Id.* at 73 (emphasis added) (Kavanaugh, J., concurring).

The Ninth Circuit, too, was faced with many of the identical discriminatory restrictions at issue here, and found them to mandate strict scrutiny. “Casinos, bowling alleys, retail businesses, restaurants, arcades, and other similar secular entities are limited to 50% of fire-code capacity, yet houses of worship are limited to fifty people regardless of their fire-code capacities.” *Calvary Chapel Dayton Valley*, 982 F.3d at 1233; *Calvary Chapel Lone Mountain v. Sisolak*, 831 F. App’x 317, 317 (9th Cir. 2020) (same).

As Justice Gorsuch noted, “[i]n recent months, certain other Governors have issued similar edicts. At the flick of a pen, they have asserted the right to privilege restaurants, marijuana dispensaries, and casinos over churches, mosques, and temples.” *Catholic Diocese*, 141 S. Ct. at 70 (Gorsuch, J., concurring). Justice Kavanaugh opined that caps on places of worship “do not apply to some secular buildings in the same neighborhoods,” *id.* at 73 (Kavanaugh, J., concurring), like “a grocery store, pet store, or big-box store down the street.” *Id.*

In *Agudath Israel*, the Second Circuit similarly noted that while worship services were restricted to 10 or 25 people, other so-called “essential businesses” were permitted without similar restrictions, including grocery stores, hospitals, liquor stores, pet shops, financial institutions, news media, certain retail stores, and construction. 2020 WL 7691715, at \*2, 7.

In *Monclova Christian Acad. v. Toledo-Lucas Cnty. Health Dep't*, the Sixth Circuit also noted that certain religious schools were prohibited from gathering for in-person instruction while other nonreligious gatherings were not so restricted, including “gyms, tanning salons, office buildings, and the Hollywood Casino.” No. 20-4300, 2020 WL 7778170, at \*3 (6th Cir. Dec. 31, 2020).

And, Judge O’Scannlain, too, observed in the previous appeal:

[I]ndoor religious worship services are completely prohibited. . . . Yet, in these same counties, the State still allows people to go indoors to: spend a day shopping in the mall, have their hair styled, get a manicure or pedicure, attend college classes, produce a television show or movie, participate in professional sports, wash their clothes at a laundromat, and even work in a meatpacking plant.

*Harvest Rock Church, Inc. v. Newsom*, 977 F.3d 728, 731 (9th Cir. 2020) (O’Scannlain, J., dissenting) (footnote omitted).

Under the Regional Stay at Home Order (Dist. Ct. dkt. 67, Ex. 12), the Governor imposes a total prohibition on religious worship services that is not imposed on so-called “critical infrastructure” sectors. (*Compare* Dist. Ct. dkt. 67 at 124 § 2.c (“Worship and political expression are permitted outdoors”), *with* Dist. Ct. dkt. 67 at 124 § 2.d (“Critical infrastructure sectors may operate” provided certain distancing and masking are followed)). And, the list of exempt activities under the Regional Stay at Home Order contains **29 pages exempting 13 sectors and hundreds of subsectors of gatherings that are not subject to the total prohibition imposed on religious worship services.** (*See* Essential Critical Infrastructure

Workers Sector Index (incorporated by reference in the Regional Stay at Home Order at n.1), attached hereto as Exhibit A, at 1–2). While Appellants’ religious worship services are banned if they include 1 person, the following sectors are not subject to any numerical restrictions whatsoever:

(1) **Health Care/Public Health:** healthcare providers and caregivers, physicians, dentists, psychologists, mid-level practitioners, nurses, assistants and aid, infection control . . . pharmacists, physical, respiratory, speech, and occupational therapists and assistants, social workers, . . . chiropractors **and 21 other categories of exempt health workers** (Ex. A at 2-4);

(2) **Emergency Services:** city police departments and fire stations, county sheriffs’ offices, Department of Defense police and fire sector resources, private security organizations and 8 other categories of businesses (Ex. A at 5-6);

(3) **Food and Agriculture: groceries, pharmacies, convenience stores, and other retail that sells food and beverage products** (i.e., liquor stores) and animal/pet food, retail customer support service, information technology support staff, . . . **restaurants, food packaging and processing**, . . . livestock, poultry, seafood slaughter facilities . . . beverage production facilities, . . . sawmills and **18 other categories of other exempt Food and Agriculture workers** (Ex. A at 7-9);

(4) **Energy:** workers supporting the energy sector . . . support workers, customer service operations, call centers, and emergency response and customer emergency operations . . . emergency environmental remediation and monitoring . . . gas stations and truck stops and numerous other categories (Ex. A at 9-10);

(5) **Water and Wastewater:** Operational staff at water authorities, Operational staff at community water systems, Operational staff at wastewater treatment facilities, Workers repairing water and wastewater conveyances and performing required sampling and monitoring, operation staff for water distribution and testing, Operational staff at wastewater collection facilities, Operational staff and technical support for SCADA control systems, Chemical disinfectant suppliers for water and wastewater and personnel

protection, and Workers that maintain digital systems infrastructure supporting water and wastewater operations (Ex. at 11);

(6) **Transportation and Logistics: airports, heliports, and landing strips . . . Mass Transit and Passenger Rail** include[ing] terminals, operational systems, and supporting infrastructure for passenger services by transit buses, trolleybuses, monorail, heavy rail—also known as subways or metros—light rail, passenger rail, and vanpool/rideshare, and **20 other categories of exempt Transportation and Logistics workers** (Ex. at 11-15);

(7) **Communications and Information Technology: workers who support radio, television, and media services**, including but not limited to front line news reporters, studio, and technicians for newsgathering, reporting, and publishing news and **20 other categories of exempt Communications and Information Technology workers** (Ex. A at 15-18);

(8) **Government Operations and other community-based essential functions:** County workers responsible for determining eligibility for safety net benefits, Workers who support administration and delivery of unemployment insurance programs, income maintenance, employment service, disaster assistance, workers' compensation insurance and benefits programs . . . **real estate services and transactions**, and **18 other categories of exempt workers** (Ex. A at 18-20);

(9) **Critical Manufacturing:** Workers necessary for manufacturing of metals, industrial minerals, semiconductors, materials and products needed for supply chains of the critical infrastructure sectors, workers engaged in the manufacture and maintenance of equipment and other infrastructure for mining production and distribution, and **5 other categories of exempt Critical Manufacturing workers** (Ex. A at 20-21);

(10) **Financial Services:** Workers who are needed to process and maintain systems for processing financial transactions and services, including payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities, Workers who are needed to maintain orderly market operations to ensure the continuity of financial transactions and services, **Workers who are needed to provide business, commercial, and consumer access to banking and non-bank financial and lending services**, including ATMs, lending money transmission, and to move currency, checks, securities,

and payments, and **4 other categories of exempt Financial Services workers** (Ex. A at 21-22);

(11) **Chemical and Hazardous Materials:** Workers supporting the chemical and industrial gas supply chains, including **workers at chemical manufacturing plants**, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, building materials, plumbing, electrical and paper products and **9 other categories of exempt Chemical and Hazardous Materials workers** (Ex. A at 22-23);

(12) **Defense Industrial Base:** Workers who support the essential services required to meet national security commitments . . . including but are not limited to, space and aerospace workers, nuclear matters workers, mechanical and software engineers (various disciplines), manufacturing and production workers, IT support, security staff, security personnel, intelligence support, aircraft and weapons systems mechanics and maintainers, and sanitary workers . . . Personnel working for companies, and their subcontractors, who perform under a contract or subcontract to the Department of Defense and **numerous other exempts Defense Industrial Base workers** (Ex. A at 24-25);

(13) **Industrial, Commercial, Residential, and Sheltering Facilities and Services:** Construction workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing, commercial, and mixed-use construction); and workers who support the supply chain of building materials from production through application/installation, including cabinetry, fixtures, doors, cement, hardware, plumbing, electrical, heating/cooling, refrigeration, appliances, paint/coatings, and employees who provide services that enable repair materials and equipment for essential functions, Workers such as plumbers, electricians, exterminators, and other service providers . . . Workers who support the supply chain of building materials . . . **Workers in hardware and building materials stores (i.e., “big-box” stores)**, consumer electronics, technology and appliances retail . . . Residential and commercial real estate workers . . . **Professional services such as legal or accounting services** . . . Workers supporting the entertainment industries, studios, or other related establishments (provided only that they follow social distancing), Workers who support food, shelter, and social services and other necessities of life,

**Workers in laundromats,<sup>1</sup> laundry services, and dry cleaners and 24 categories of exempt Industrial, Commercial, Residential, and Sheltering Facilities workers** (Ex. A at 25-28).

The Regional Stay at Home Order, like Tier 1 of the Blueprint and the July 13 Order, continues to ban all indoor religious worship no matter the size of the facility while exempting similar congregate secular gatherings—many of which were specifically mentioned as comparables in *Catholic Diocese* and the decisions from this Court and the Second Circuit. Examples include: food packaging and processing, laundromats, warehouses, grocery stores, liquor stores, retail stores, malls, transportation facilities, bus stations, train stations, airports, gambling centers, acupuncture facilities, garages, plants manufacturing chemicals and microelectronics, hardware stores, repair shops, signage companies, accountants, lawyers, insurance agents, pet stores, film production facilities, and more. *See, e.g., Catholic Diocese*, 141 S. Ct. at 66; *id.* at 69 (Gorsuch, J., concurring); *id.* (Kavanaugh, J., concurring); *Calvary Chapel*, 2020 WL 7350247, at \*4; *Agudath Israel*, 2020 WL 7691715, at \*2; *Harvest Rock*, 977 F.3d at 731 (O’Scannlain, J., dissenting).

The litany of exemptions for special treatment compared against the total ban on religious assemblies “cannot be viewed as neutral because they single out houses

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<sup>1</sup> At the January 4 oral argument, the Governor contended that laundromats were not exempted. But, the Regional Stay at Home Order proves otherwise. (Ex. A at 25–28.)



of worship for especially harsh treatment.” *Catholic Diocese*, 141 S. Ct. at 66. When compared with the restrictions of 10 or 25 people at issue in *Catholic Diocese*, the Regional Stay at Home Order violates the First Amendment because a total prohibition is

far more restrictive than any COVID-related regulations that have previously come before the Court, much tighter than those adopted by many other jurisdictions hard hit by the pandemic, and far more severe than has been shown to be required to prevent the spread of the virus at the applicant’s services.

*Id.* at 67; *Calvary Chapel Dayton Valley*, 2020 WL 7350247, at \*4 (same).

The Regional Stay at Home Order includes a minor capacity reduction for retailers, down to 20 percent from 25 percent under Blueprint Tier 1. The fact remains that retailers can operate, but places of worship cannot. “[U]nder this Court’s precedents, it does not suffice for a State to point out that, as compared to houses of worship, *some* secular businesses are subject to similarly severe or even more severe restrictions.” *Catholic Diocese*, 141 S. Ct. at 73 (Kavanaugh, J., concurring) (emphasis added). “Rather, once a State has created a favored class of businesses”—which the Regional Stay at Home Order and the Blueprint both do—“the State must justify why houses of worship are excluded from the favored class.”

*Id.*

And, there is no world in which 29 pages of exempt business sectors creating hundreds of subcategories of exempt secular activities and facilities—all of which



were present in *Catholic Diocese, Calvary Chapel Dayton Valley, Agudath Israel, and Monclova Christian*—can be the least restrictive means available. “[T]here is no world in which the Constitution tolerates color-coded executive edicts that open liquor stores and bike shops [and hundreds of other essential businesses] but shutter churches, synagogues, and mosques.” 141 S. Ct. at 72 (Gorsuch, J., concurring) (emphasis added).

### III. THE REGIONAL STAY AT HOME ORDER CONTINUES TO IMPOSE DISCRIMINATORY INTERNAL DISCRIMINATION ON APPELLANTS’ RELIGIOUS WORSHIP SERVICES AND NONRELIGIOUS ACTIVITIES.

While Appellants’ churches may not gather with even 1 person for indoor religious worship services (*supra* Sections I and II), they may gather in their same buildings with an unlimited number of people to provide social services or “necessities of life” to feed, shelter, or counsel people. (Dist. Ct. dkt. 67 at 124 § 2d and n.1; *see also* Exhibit A at 27 (exempting from the Regional Stay at Home Order all “[w]orkers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals”). This internal discrimination has been present since the original Stay at Home Order of March 19, 2020. (9th Cir. dkt. 3-5 at 85.) It became worse on July 13 when all indoor worship was banned, and the same internal discrimination continues through the August 28 Blueprint, and the December 3 Regional Stay at Home Order. As Judge O’Scannlain pointed out previously, “even non-worship activities conducted by or

within a place of worship are not subject to the attendance parameters” otherwise applicable to places of worship. *Harvest Rock*, 977 F.3d at 734 (O’Scannlain, J., dissenting). Such internal micromanagement of the affairs of Appellants’ religious activities is plainly unconstitutional. *See Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2055 (2020) (“**State interference in that sphere would obviously violate the free exercise of religion, and any attempt by government to dictate or even to influence such matters would constitute one of the central attributes of an establishment of religion. The First Amendment outlaws such intrusion.**” (emphasis added)).

#### **IV. THE GOVERNOR’S “TEMPORARY” MEASURES THAT HAVE BEEN IMPOSING IRREPARABLE HARM ON APPELLANTS FOR OVER SIX MONTHS MUST END.**

Appellants have now been forced to endure restrictions on their religious rights for 178 days, including the Holy Days of Good Friday, Easter, Pentecost, and Christmas. The Governor has argued that some restrictions in the Blueprint were relaxed. (9th Cir. dkt. 7-2 at 6, 9.) While he is not specific, what is clear is places of worship continued to be totally banned in Tier 1. Now the Governor argues, as he has from the beginning, that more restrictions need to be imposed due to circumstances. But the fact remains that no order can be more restrictive than the total ban on worship beginning on July 13, in Tier 1 of the Blueprint, and continuing

in the Regional Stay at Home Order. How long must Appellants endure this this discriminatory treatment?

As Justice Alito noted, “a public health emergency does not give Governors and other public officials *carte blanche* to disregard the Constitution for as long as the medical problem persists.” *Calvary Chapel Dayton Valley v. Sisolak*, 140 S. Ct. 2603, 2605 (2020) (Alito, J., dissenting). Indeed, “deference cannot go on forever. It is no longer March. It is now [January 2021] and the record makes clear that Defendants have no anticipated end-date to their emergency interventions.” *Cnty. of Butler v. Wolf*, 2020 WL 5510690, \*9 (W.D. Penn. Sept. 14, 2020). “Faced with ongoing interventions of indeterminate length, ‘suspension’ of normal constitutional levels of scrutiny **may ultimately lead to the suspension of constitutional liberties themselves.**” *Id.* (emphasis added). The Governor’s 10-month-old, “temporary”<sup>2</sup> measures have gone on too long.

“For Christians, there is nothing minimal about celebrating Easter, the holiest day in the Christian Calendar.” *On Fire Christian Ctr., Inc. v. Fischer*, 453 F. Supp. 3d 901, 914 (W.D. Ky. 2020). Yet, under the Regional Stay at Home Order and the

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<sup>2</sup> Though 10 months hardly seems “temporary,” what is clear is that even when (and if) the Regional Stay at Home Order is removed for a County, then the unconstitutional regime of Blueprint Tiers 1–4 automatically becomes the governing standard. (Dkt. 3-1, Emergency Motion for IPA at 6-21; Addendum Chart at 1-4.)

Blueprint, Appellants have faced criminal sanctions for attending services every day, including Good Friday, Easter, Pentecost, and Christmas.

As the Supreme Court has held, “[w]e are a **religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses.**” *Zorach v. Clauson*, 343 U.S. 306, 313 (1952) (emphasis added).

No person in America should be forced to choose between worship and jail, as is the case for Appellants’ pastors, staff, and parishioners. Indeed,

The Constitution of the United States is a law for rulers and people, equally in war and peace, and covers with the shield of its protection all classes of men, **at all times, and under all circumstances.** No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads to directly to anarchy or despotism.

*Ex Parte Milligan*, 71 U.S. 2, 120–21 (1866) (emphasis added).

The exigencies are no excuse for discarding the First Amendment.

[I]f society is disturbed by civil commotion—if the passions of men are aroused and the restraints of law weakened, if not disregarded—these safeguards need, and should receive, the watchful care of those intrusted with the guardianship of the Constitution and laws. In no other way can we transmit to posterity unimpaired the blessings of liberty, consecrated by the sacrifices of the Revolution.

*Id.* at 124. “[A] country, preserved at the sacrifice of all the cardinal principles of liberty, is not worth the cost of preservation.” *Id.* at 126.

## CONCLUSION

For the foregoing reasons, the IPA should issue.

Respectfully submitted,

Dated: January 7, 2020

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/s/ Daniel J. Schmid  
Daniel J. Schmid  
*Attorney for Plaintiffs–Appellants*

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# Essential workforce

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On March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing all residents immediately to heed current State public health directives to [stay home](#), except as needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as the State Public Health Officer may designate as critical to protect health and well-being of all Californians.

In accordance with this order, the State Public Health Officer has designated the following list of **Essential Critical Infrastructure Workers** to help state, local, tribal, and industry partners as they work to protect communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security.

## Sector index

### 1. Health Care / Public Health



#### Sector profile

The Health Care and Public Health (HPH) Sector is large, diverse, and open, spanning both the public and private sectors. It includes publicly accessible healthcare facilities, research centers, suppliers, manufacturers, and other physical assets and vast, complex public-private information technology systems required for care delivery and to support the rapid, secure transmission and storage of large amounts of HPH data.

#### Essential workforce, if remote working is not practical:



1. Health care providers and caregivers (including physicians, dentists, psychologists, mid-level practitioners, nurses, assistants, and aids; infection control and quality assurance personnel; pharmacists; physical, respiratory, speech and occupational therapists and assistants; social workers and providers serving individuals with disabilities including developmental disabilities; optometrists; speech pathologists; chiropractors; diagnostic and therapeutic technicians; and radiology technologists).
2. Workers required for effective clinical, command, infrastructure, support service, administrative, security and intelligence operations across the direct patient care and full healthcare and public health spectrum, including accounting, administrative, admitting and discharge, engineering, accrediting, certification, licensing, credentialing, epidemiological, source plasma and blood donation, food service, environmental services, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians; emergency medical services workers; prehospital workers including but not limited to urgent care workers; inpatient and hospital workers; outpatient care workers; home care workers; workers at long-term care facilities, residential and community-based providers; workplace safety workers).
3. Workers needed to support transportation to and from healthcare facilities and provider appointments.
4. Workers needed to provide laundry services, food services, reprocessing of medical equipment, and waste management.
5. Vendors and suppliers (including imaging, pharmacy, oxygen services, durable medical equipment)
6. Workers who perform critical clinical research, development, and testing needed for COVID-19 response.
7. Workers in other medical and life science facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive

Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies,

Procurement Organizations, Psychiatric, Residential, Rural Health Clinics and Federally Qualified Health Centers, and retail facilities specializing in medical goods and supplies, including cannabis).

8. Workers for health manufacturing (including life science companies, and companies that have shifted production to medical supplies), materials and parts suppliers, technicians, logistics and warehouse operators, printers, packagers, and distributors of medical equipment (including those who test and repair), personal protective equipment (PPE), isolation barriers, medical gases, pharmaceuticals (including materials used in radioactive drugs, and cannabis products), dietary supplements, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, personal hygiene products, and tissue and paper towel products.
9. Public health / community health workers, including those who compile, model, analyze and communicate public health information.
10. Behavioral and mental health workers responsible for coordination, outreach, engagement, and treatment to individuals in need of mental health and/or behavioral services.
11. Donors of blood bone marrow, blood stem cell, or plasma and the workers of the organizations that operate and manage related activities.
12. Workers that manage health plans, billing, and health information.
13. Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information.
14. Workers performing IT and cybersecurity functions at healthcare and public health facilities.
15. Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions.
16. Pharmacy employees, including workers necessary to maintain uninterrupted

prescription filling.

17. Workers in retail facilities specializing in medical goods and supplies.
18. Public health and environmental health workers, including workers specializing in environmental health that focus on implementing environmental controls, sanitary and infection control interventions, healthcare facility safety and emergency preparedness planning, engineered work practices, and developing guidance and protocols for appropriate PPE to prevent COVID-19 disease transmission; Public health/ community health workers (including call center workers) who conduct community- based public health functions, conducting epidemiologic surveillance and compiling, analyzing, and communicating public health information.
19. Mortuary services providers, including workers performing mortuary, funeral, cremation burial, cemetery, and related services, including funeral homes, crematoriums, cemetery workers and coffin makers.
20. Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to behavioral and mental health services to the family members, responders, and survivors of an incident.
21. Workers supporting veterinary hospitals and clinics.
22. Workers supporting operations of outdoor recreational facilities for the purpose of facilitating physically distanced personal health and wellness through outdoor exercise.

### **Relevant sector guidance:**

- [All Facility Letters for health care facilities, including long-term care facilities](#)
- [Health care facilities, Skilled Nursing Facilities](#)
- [Individuals with Access and Functional Needs](#)
- [Medical Waste Management – Interim Guidelines](#)
- [Outpatient Healthcare Facility Infection Control Recommendations for Suspect](#)

- [Prioritization of Patients for Laboratory Testing for COVID-19](#)
- [Veterinary Professionals and Premises](#)
- Regional Centers:
  - [Visits to Licensed Residential Facilities](#)
  - [Risk Mitigation Strategies for ARFPSHN, ICF/DD-CN](#)
- [Adult and Senior Care Facilities](#)
  - [Cuidado a los Adultos Mayores](#)
- [Community care facilities, including assisted living facilities and child care](#)
- [Medi-Cal Managed Care Health Plans: COVID – 19 Screening and Testing](#)
- [Coverage Options Fact Sheet](#)

## 2. Emergency Services



### Sector profile

The Emergency Services Sector (ESS) is a community of highly-skilled, trained personnel, along with the physical and cyber resources, that provide a wide range of prevention, preparedness, response, and recovery services during both day-to-day operations and incident response. The ESS includes geographically distributed facilities and equipment in both paid and volunteer capacities organized primarily at the federal, state, local, tribal, and territorial levels of government, such as city police departments and fire stations, county sheriff's offices, Department of Defense police and fire departments, and town public works departments. The ESS also includes private sector resources, such as industrial fire departments, private security organizations, and private emergency medical services providers.

### Essential workforce, if remote working is not practical:

1. Public, private, and voluntary personnel (front line and management) in emergency management, law enforcement, fire and rescue services, emergency medical services, corrections, rehabilitation and reentry, search and rescue, hazardous material response, and technicians supporting maritime and aviation

emergency response.

2. Public Safety Answering Points and 911 call center employees; personnel involved in access to emergency services including the emergency alert system and wireless emergency alerts.
3. Fusion Center employees
4. Workers who support weather disaster / natural hazard monitoring, response, mitigation, and prevention, including personnel conducting, supporting, or facilitating wildfire mitigation activities
5. Workers – including contracted vendors – who maintain, manufacture, or supply equipment and services supporting law enforcement, fire, EMS, and emergency service response operations (including safety equipment, electronic security, and uniforms)
6. Workers responding to abuse and neglect of children, elders and dependent adults.
7. Animal control officers and humane officers
8. Security staff to maintain building access control and physical security measures
9. Workers and contracted vendors who maintain and provide services and supplies to public safety facilities, including emergency communication center, public safety answering points, public safety communications centers, emergency operation centers, fire and emergency medical services stations, police and law enforcement stations and facilities.

### Relevant sector guidance:

- [Public Health Guidance about COVID-19 for California State Prisons](#)
- [First responders including paramedics and EMTs](#)

## 3. Food and Agriculture



### Sector profile

The Food and Agricultural (FA) Sector is composed of complex production,

processing, and delivery systems and has the capacity to feed people and animals both within and beyond the boundaries of the United States. Beyond domestic food production, the FA Sector also imports many ingredients and finished products, leading to a complex web of growers, processors, suppliers, transporters, distributors, and consumers. This sector is critical to maintaining and securing our food supply.

**Essential workforce, if remote working is not practical:**

1. Workers supporting groceries, pharmacies, convenience stores, and other retail that sells food or beverage products, and animal/pet food, retail customer support service, information technology support staff, for online orders, pickup/takeout or delivery.
2. Workers supporting restaurant carry-out and quick serve food operations, including food preparation, carry-out and delivery food employees.
3. Food manufacturer employees and their supplier employees to include those employed in food ingredient production and processing facilities; aquaculture and seafood harvesting facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging, including recycling operations and processing.
4. Farmers, farm and ranch workers, and agribusiness support services to include those employed in auction and sales; grain and oilseed handling, storage, processing and distribution; animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport.
5. Farmers, farm and ranch workers, support service workers and their supplier employees producing food supply domestically and for export to include those engaged in raising, cultivating, harvesting, packing, storing, or delivering to storage or to market or to a carrier for transportation to market any agricultural or horticultural commodity for human consumption; those engaged in producing and harvesting field crops; cannabis growers; agricultural and commodity inspection; fuel ethanol facilities; storage facilities; biodiesel and renewable diesel

facilities; and other agricultural inputs

6. Employees and firms supporting food, feed, and beverage distribution and ingredients used in these products including warehouse workers, vendor-managed inventory controllers, and blockchain managers.
7. Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail.
8. Workers supporting the growth and distribution of plants and associated products for home gardens.
9. Workers in cafeterias used to feed workers, particularly worker populations sheltered against COVID-19
10. Workers in animal diagnostic and food testing laboratories
11. Workers essential for assistance programs and government payments
12. Government, private, and non-governmental organizations' workers essential for food assistance programs (including school lunch programs) and government payments.
13. Employees of companies engaged in the production, storage, transport, and distribution of chemicals; medicines, including cannabis; vaccines; and other substances used by the food and agriculture industry, including seeds, pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids.
14. Animal agriculture workers to include those employed in veterinary health (including those involved in supporting emergency veterinary or livestock services); raising of animals for food; animal production operations; livestock markets; slaughter and packing plants, manufacturers, renderers, and associated regulatory and government workforce.
15. Transportation supporting animal agricultural industries, including movement of animal medical and reproductive supplies and material, animal vaccines, animal drugs, feed ingredients, feed, and bedding, live animals, animal medical materials; transportation of deceased animals for disposal; and associated regulatory and



government workforce

16. Workers who support sawmills and the manufacture and distribution of fiber and forest products, including, but not limited to timber, paper, and other wood and fiber products
17. Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution
18. Workers at animal care facilities that provide food, shelter, veterinary and/or routine care and other necessities of life for animals.

### Relevant sector guidance:

- [Food, Beverage, Other Services](#)
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## 4. Energy



### Sector profile

The Energy Sector consists of widely diverse and geographically dispersed critical assets and systems that are often interdependent of one another. This critical infrastructure is divided into three interrelated segments or subsectors—electricity, oil, and natural gas—to include the production, refining, storage, and distribution of oil, gas, and electric power. The Energy Sector supplies fuels to the transportation industry, electricity to households and businesses, and other sources of energy that are integral to growth and production across the Nation. In turn, it depends on the Nation's transportation, information technology, communications, finance, water, and government infrastructures.

### Essential workforce, if remote working is not possible:

Workers supporting the energy sector, regardless of the energy source, segment of the system, or infrastructure the worker is involved in, or who are needed to monitor, operate, engineer, and maintain the reliability, safety, environmental health, physical and cyber security of the energy system, including power generation, transmission and distribution.



Workers supporting the energy sector, regardless of the energy source, needed for construction, manufacturing, transportation and logistics, maintenance, and permitting.

IT and OT technology for essential energy sector operations including support workers, customer service operations, call centers, and emergency response and customer emergency operations; energy management systems, control systems, Supervisory Control and Data Acquisition SCADA systems, and energy sector entity data centers; cybersecurity engineers; and cybersecurity risk management.

Workers providing services related to energy sector fuels and supply chains, supporting the procurement, mining, drilling, processing, refining, manufacturing, refueling, construction, logistics, transportation (including marine transport, terminals, rail and vehicle transport), permitting operation and maintenance, security, waste disposal, storage, and monitoring of support for resources;

Workers supporting environmental remediation and monitoring.

Workers supporting manufacturing and distribution of equipment, supplies, and parts necessary to maintain production, maintenance, restoration, and service at energy sector facilities across all energy sectors, and regardless of the energy source.

Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and technicians to manage the network or operate facilities.

Workers at Reliability Coordinator, Balancing Authorities, and primary and backup Control Centers, including but not limited to independent system operators, regional transmission organizations, and balancing authorities; and workers involved in energy commodity trading and scheduling.

Mutual assistance personnel, which may include workers from outside of the state or local jurisdiction

Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them.

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## 5. Water and Wastewater



## Sector profile

The Water and Wastewater Sector is a complex sector composed of drinking water and wastewater infrastructure of varying sizes and ownership types. Multiple governing authorities pertaining to the Water and Wastewater Sector provide for public health, environmental protection, and security measures, among others.

### **Essential workforce, if remote working is not practical:**

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

1. Operational staff at water authorities
2. Operational staff at community water systems
3. Operational staff at wastewater treatment facilities
4. Workers repairing water and wastewater conveyances and performing required sampling or monitoring
5. Operational staff for water distribution and testing
6. Operational staff at wastewater collection facilities
7. Operational staff and technical support for SCADA Control systems
8. Chemical disinfectant suppliers for water and wastewater and personnel protection
9. Workers that maintain digital systems infrastructure supporting water and wastewater operations

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## 6. Transportation and Logistics



### **Sector profile**

The Transportation Systems Sector consists of seven key subsectors, or modes:

- Aviation includes aircraft, air traffic control systems, and airports, heliports, and landing strips. Commercial aviation services at civil and joint-use military airports, heliports, and sea plane bases. In addition, the aviation mode includes commercial and recreational aircraft (manned and unmanned) and a wide variety

of support services, such as aircraft repair stations, fueling facilities, navigation aids, and flight schools.

- Highway and Motor Carrier encompasses roadway, bridges, and tunnels. Vehicles include trucks, including those carrying hazardous materials; other commercial vehicles, including bicycles, commercial motor coaches and school buses; vehicle and driver licensing systems; taxis, transportation services including Transportation Network Companies, and delivery services including Delivery Network Companies; traffic management systems; AND cyber systems used for operational management.
- Maritime Transportation System consists of coastline, ports, waterways, and intermodal landside connections that allow the various modes of transportation to move people and goods to, from, and on the water.
- Mass Transit and Passenger Rail includes terminals, operational systems, and supporting infrastructure for passenger services by transit buses, trolleybuses, monorail, heavy rail—also known as subways or metros—light rail, passenger rail, and vanpool/rideshare.
- Pipeline Systems consist of pipelines carrying natural gas hazardous liquids, as well as various chemicals. Above-ground assets, such as compressor stations and pumping stations, are also included.
- Freight Rail consists of major carriers, smaller railroads, active railroad, freight cars, and locomotives.
- Postal and Shipping includes large integrated carriers, regional and local courier services, mail services, mail management firms, and chartered and delivery services.

### **Essential workforce, if remote working is not practical:**

1. Employees supporting or enabling transportation functions, including truck drivers, bus drivers, dispatchers, maintenance and repair technicians, warehouse

workers, truck stop and rest area workers, towing and recovery services, roadside

assistance workers, intermodal transportation personnel, and workers that maintain and inspect infrastructure

2. Working supporting or providing services that enable logistics operations for essential sectors, wholesale and retail sale, including warehousing, cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
3. Workers supporting maintenance and operation of essential highway infrastructure, including roads, bridges, and tunnels.
4. Workers of firms providing services, supplies, and equipment that enable warehouse and operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
5. Mass transit workers providing critical transit services and/or performing critical or routine maintenance to mass transit infrastructure or equipment.
6. Employees supporting personal and commercial transportation services, including taxis, bicycle services, Transportation Network Companies, and delivery services including Delivery Network Companies
7. Workers responsible for operating dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment
8. Maritime transportation and inland waterway workers – to include maintenance and repair – including port authority and commercial facility personnel, dredgers, port workers, mariners, ship crewmembers, ship pilots and tugboat operators, ship supply, Chandler, and equipment operators.
9. Workers who support the operation, inspection, and maintenance of essential dams, locks, and levees.
10. Workers who support the inspection and maintenance of aids to navigation and other government-provided services that ensure continued maritime commerce.
11. Workers supporting transportation of chemicals, hazardous, medical, waste and recyclable materials to support critical sectors and infrastructure.
12. Automotive repair, maintenance, and transportation equipment manufacturing

and distribution facilities.

13. Transportation safety inspectors, including hazardous material inspectors and accident investigator inspectors
14. Manufacturers and distributors (to include service centers and related operations) of lighting and communication systems, specialized signage and structural systems, emergency response equipment and support materials, printers, printed materials, packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
15. Postal, parcel, courier, last-mile delivery, and shipping workers, to include private companies who accept, process, transport, and deliver information and goods.
16. Workers who supply equipment and materials for maintenance of transportation equipment.
17. Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, bicycles, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers
18. Workers who support air transportation for cargo and passengers, including operation distribution, maintenance, and sanitation. This includes air traffic controllers, flight dispatchers, maintenance personnel, ramp workers, fueling agents, flight crews, airport safety inspectors and engineers, airport operations personnel, aviation and aerospace safety workers, security, commercial space personnel, operations personnel, accident investigators, flight instructors, and other on- and off-airport facilities workers.
19. Workers critical to the manufacturing, distribution, sales, rental, leasing, repair, and maintenance of vehicles and other transportation equipment (including electric vehicle charging stations) and the supply chains that enable these operations, subject to adhering public health guidance issued by CDPH.
20. Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main

breaks, fleet maintenance personnel, construction of critical or strategic

## 7. Communications and Information Technology



### Sector profile

The Communications Sector provides products and services that support the efficient operation of today's global information-based society. Communication networks enable people around the world to contact one another, access information instantly, and communicate from remote areas. This involves creating a link between a sender (including voice signals) and one or more recipients using technology (e.g., a telephone system or the Internet) to transmit information from one location to another. Technologies are changing at a rapid pace, increasing the number of products, services, service providers, and communication options. The national communications architecture is a complex collection of networks that are owned and operated by individual service providers. Many of this sector's products and services are foundational or necessary for the operations and services provided by other critical infrastructure sectors. The nature of communication networks involves both physical infrastructure (buildings, switches, towers, antennas, etc.) and cyber infrastructure (routing and switching software, operational support systems, user applications, etc.), representing a holistic challenge to address the entire physical-cyber infrastructure.

The IT Sector provides products and services that support the efficient operation of today's global information-based society and are integral to the operations and services provided by other critical infrastructure Sectors. The IT Sector is comprised of small and medium businesses, as well as large multinational companies. Unlike many critical infrastructure Sectors composed of finite and easily identifiable physical assets, the IT Sector is a functions-based Sector that comprises not only physical assets but also virtual systems and networks that enable key capabilities and services in both the public and private sectors.

### Essential workforce – Communications, if remote working is not practical:

1. Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite

operations, Internet Exchange Points, Network Access Points, back haul and front haul facilities, and manufacturers and distributors of communications equipment.

2. Workers performing functions related to undersea cable infrastructure and support facilities, including cable landing sites, beach manhole vaults and covers, submarine cable depots, and submarine cable ship facilities
3. Government and private sector employees supporting Department of Defense internet and communications facilities.
4. Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering, reporting, and publishing news.
5. Network Operations staff, engineers and/or technicians to include IT managers and staff, HVAC & electrical engineers, security personnel, software and hardware engineers, and database administrators that manage the network or operate facilities
6. Workers responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables, buried conduit, small cells, other wireless facilities, and other communications sector-related infrastructure. This includes construction of new facilities and deployment of new technology required to address congestion or customer usage on remote services.
7. Installation, maintenance and repair technicians that establish, support or repair service as needed.
8. Central office personnel to maintain and operate central office, data centers, and other network office facilities, and critical support personnel assisting front line employees
9. Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or



support service environments and security issues, including payroll, billing, fraud, logistics and troubleshooting

10. Workers providing electronic security, fire, monitoring, and life safety services, and who ensure physical security, cleanliness, and the safety of facilities and personnel, including those who provide temporary licensing waivers for security personnel to work in other States or Municipalities.
11. Dispatchers involved with service repair and restoration
12. Retail customer service personnel at critical service center locations for onboarding customers, distributing and repairing equipment and other supply chain personnel, to support individuals' remote emergency communications needs;
13. External Affairs personnel to assist in coordinating with local, state, and federal officials to address communications needs supporting COVID-19 response, public safety, and national security.
14. Workers responsible for ensuring that persons with disabilities have access to and the benefits of various communications platforms, including those involved in the provision of telecommunication relay services, closed captioning of broadcast television for the deaf, video relay services for deaf citizens who prefer communication via American Sign Language over text, and audio-description for television programming.

**Essential workforce – Information Technology, if remote working is not practical:**

1. Workers who support command centers, including, but not limited to Network Operations Command Centers, Broadcast Operations Control Center and Security Operations Command Centers
2. Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers and purchasers, data transfer solutions engineers, software and hardware engineers, and database administrators
3. Workers who support client service centers, field engineers, and other workers



supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, support services, research and

development, information technology equipment (to include microelectronics and semiconductors), and HVAC and electrical equipment for critical infrastructure and test labs and certification agencies that qualify such equipment for critical infrastructure.

4. Workers needed to pre-empt and respond to cyber incidents involving critical infrastructure,, and entities supporting the functioning of critical infrastructure sectors
5. Suppliers, designers, transporters and other workers supporting the manufacture, distribution, and construction of essential global, national and local infrastructure for computing services (including cloud computing services and teleworking capabilities), business infrastructure, financial transactions, web-based services, and critical manufacturing
6. Workers supporting communications systems, information technology, and work from home solutions
7. Employees required to support Software as a Service businesses that enable remote working, performance of business operations, distance learning, media

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## 8. Government Operations and other community-based essential functions



### Essential workforce, if remote working is not practical:

1. Critical government workers, as defined by the employer and consistent with Continuity of Operations Plans and Continuity of Government plans.
2. County workers responsible for determining eligibility for safety net benefits
3. The Courts, consistent with [guidance](#) released by the California Chief Justice
4. Workers who support administration and delivery of unemployment insurance programs, income maintenance, employment service, disaster assistance, workers' compensation insurance and benefits programs, and pandemic assistance

5. Workers to ensure continuity of building functions, including but not limited to security and environmental controls, the manufacturing and distribution of the products required for these functions, and the permits and inspection for construction.
6. Elections personnel
7. Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
8. Trade Officials (FTA negotiators; international data flow administrators)
9. Weather forecasters
10. Workers that maintain digital systems infrastructure supporting other critical government operations
11. Workers who support necessary credentialing, vetting and licensing operations for critical sector workers and operations.
12. Workers who are critical to facilitating trade in support of the national, state, and local emergency response supply chain
13. Workers supporting public and private childcare establishments, pre-K establishments, K-12 schools, colleges, and universities for purposes of distance learning, provision of school meals, or care, supervision, and instruction of minors
14. Staff at government offices who perform title search, notary, and recoding services in support of mortgage and real estate services and transactions;
15. Workers and instructors supporting academies and training facilities and courses for the purpose of graduating students and cadets that comprise the essential workforce for all identified critical sectors
16. Clergy for essential support and faith-based services that are provided outdoors, or through streaming or other technologies that support physical distancing and state public health guidelines.
17. Human services providers, especially for at risk populations, including home delivered meal providers for older adults, people with disabilities, and others with chronic health conditions; home-maker services for frail, homebound, older adults; personal assistance services providers to support activities of daily living

for older adults, people with disabilities, and others with chronic health conditions who live independently in the community with supports and services; home health providers who deliver health care services for older adults, people with disabilities, and others with chronic health conditions who live independently in the community with supports and services.

18. Government entities, and contractors that work in support of local, state, and federal public health and medical mission sets, including but not limited to supporting access to healthcare and associated payment functions, conducting public health functions, providing medical care, supporting emergency management, or other services necessary for supporting the COVID-19 response.

### Relevant sector guidance:

- Schools and institutions of higher education
  - [Guidance for schools \(PDF\)](#)
  - [Directrices para las escuelas sobre el nuevo coronavirus o COVID-19 \(PDF\)](#)
  - [Guidance for colleges and universities](#)
  - [Directrices para las instituciones de educación superior sobre el nuevo coronavirus o COVID-19](#)
- [Guidance for Using Disinfectants at Schools and Child Cares](#)
  - [Recordatorios para el uso de desinfectantes en las escuelas y guarderías](#)
- [Community care facilities including assisted living facilities and child care](#)

## 9. Critical Manufacturing



### Sector profile

The Critical Manufacturing Sector identifies several industries to serve as the core of the sector: Primary Metals Manufacturing, Machinery Manufacturing, Electrical Equipment, Appliance, and Component Manufacturing, Transportation Equipment Manufacturing Products made by these manufacturing industries are essential to

many other critical infrastructure sectors.

### **Essential workforce, if remote working is not practical:**

1. Workers necessary for the manufacturing of metals, industrial minerals, semiconductors, materials and products needed for supply chains of the critical infrastructure sectors.
2. Workers necessary for the manufacturing of materials and products needed to manufacture medical equipment and personal protective equipment
3. Workers necessary for mining and production of critical minerals, materials and associated essential supply chains, and workers engaged in the manufacture and maintenance of equipment and other infrastructure necessary for mining production and distribution.
4. Workers who produce or manufacture parts or equipment that supports continued operations for any essential services and increase in remote workforce, including computing and communication devices, semiconductors, and equipment such as security tools for Security Operations Centers (SOCs) or data centers.
5. Workers manufacturing or providing parts and equipment that enable the maintenance and continued operation of essential businesses and facilities.

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## **10. Financial Services**



### **Sector profile**

The Financial Services Sector includes thousands of depository institutions, providers of investment products, insurance companies, other credit and financing organizations, and the providers of the critical financial utilities and services that support these functions. Financial institutions vary widely in size and presence, ranging from some of the world's largest global companies with thousands of employees and many billions of dollars in assets, to community banks and credit unions with a small number of employees serving individual communities. Whether an individual savings account, financial derivatives, credit extended to a large

organization, or investments made to a foreign country, these products allow customers to: Deposit funds and make payments to other parties; Provide credit and liquidity to customers; Invest funds for both long and short periods; Transfer financial risks between customers.

**Essential workforce, if remote working is not practical:**

1. Workers who are needed to process and maintain systems for processing financial transactions and services, including payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities
  2. Workers who are needed to maintain orderly market operations to ensure the continuity of financial transactions and services.
  3. Workers who are needed to provide business, commercial, and consumer access to banking and non-bank financial and lending services, including ATMs, lending money transmission, and to move currency, checks, securities, and payments
  4. Workers who support financial operations, such as those staffing call, data and security operations centers, managing physical security, or providing accounting services.
  5. Workers supporting production and distribution of debit and credit cards.
  6. Workers providing electronic point of sale support personnel for essential businesses and workers.
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## 11. Chemical and Hazardous Materials



### Sector profile

The Chemical Sector—composed of a complex, global supply chain—converts various raw materials into diverse products that are essential to modern life. Based on the product produced, the sector can be divided into five main segments, each of which has distinct characteristics, growth dynamics, markets, new developments, and issues: Basic chemicals; Specialty chemicals; Agricultural chemicals; Pharmaceuticals; Consumer products.

**Essential workforce, if remote working is not practical:**

1. Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, building materials, plumbing, electrical and paper products.
2. Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
3. Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, disinfectants, and packaging that prevents the contamination of food, water, medicine, among others essential products
4. Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/ or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
5. Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing
6. Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
7. Workers who support hazardous materials response and cleanup
8. Workers who maintain digital systems infrastructure supporting hazardous materials management operations
9. Workers who support the removal, storage, and disposal of residential and commercial solid waste and hazardous waste, including landfill and recycling operations.

## 12. Defense Industrial Base



### Sector profile

The Defense Industrial Base Sector is the worldwide industrial complex that enables research and development, as well as design, production, delivery, and maintenance of military weapons systems, subsystems, and components or parts, to meet U.S. military requirements. The Defense Industrial Base partnership consists of Department of Defense components, Defense Industrial Base companies and their subcontractors who perform under contract to the Department of Defense, companies providing incidental materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities. Defense Industrial Base companies include domestic and foreign entities, with production assets located in many countries. The sector provides products and services that are essential to mobilize, deploy, and sustain military operations.

### Essential workforce, if remote working is not practical:

1. Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military, including, but are not limited to, space and aerospace workers, nuclear matters workers, mechanical and software engineers (various disciplines), manufacturing and production workers, IT support, security staff, security personnel, intelligence support, aircraft and weapon system mechanics and maintainers, and sanitary workers who maintain the hygienic viability of necessary facilities.
2. Personnel working for companies, and their subcontractors, who perform under contract or sub-contract to the Department of Defense (DoD) and the Department of Energy (DoE) (on nuclear matters), as well as personnel at government-owned/contractor operated facilities, and who provide materials and services to the DoD and DoE (on nuclear matters), including support for weapon systems, software systems and cybersecurity, defense and intelligence communications, surveillance, sale of U.S. defense articles and services for export to foreign allies



and partners (as authorized by the U.S. government), and space systems and other activities in support of our military, intelligence, and space forces.

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## 13. Industrial, Commercial, Residential, and Sheltering Facilities and Services



### Essential workforce, if remote working is not practical:

1. Construction workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing, commercial, and mixed-use construction); and workers who support the supply chain of building materials from production through application/installation, including cabinetry, fixtures, doors, cement, hardware, plumbing, electrical, heating/cooling, refrigeration, appliances, paint/coatings, and employees who provide services that enable repair materials and equipment for essential functions.
2. Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, construction material sources, and essential operation of construction sites and construction projects (including those that support such projects to ensure the availability of needed facilities, transportation, energy and communications; and support to ensure the effective removal, storage, recycling and disposal of solid waste and hazardous waste)
3. Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, businesses, and buildings such as hospitals and senior living facilities, including any facility supporting COVID-19 response.
4. Workers who support the supply chain of building materials from production through application and installation, including cabinetry, fixtures, doors, cement, hardware, plumbing (including parts and services), electrical, heating and cooling, refrigeration, appliances, paint and coatings, and workers who provide services



that enable repair materials and equipment for essential functions.

5. Workers in hardware and building materials stores, consumer electronics, technology and appliances retail, and related merchant retailers, wholesalers and distributors that support essential workforce functions where sales and operations cannot be conducted online
6. Warehouse operators, including vendors and support personnel critical for business continuity (including heating, ventilation, and air conditioning (HVAC) and electrical engineers, security personnel, and janitorial staff), e-commerce or online commerce, and customer service for essential functions.
7. Workers supporting the operations of commercial buildings that are critical to safety, security, and the continuance of essential activities, such as on-site property managers, building engineers, security staff, fire safety directors, janitorial personnel, and service technicians (e.g., mechanical, HVAC, plumbers, electricians, and elevator).
8. Workers supporting ecommerce through distribution, warehouse, call center facilities, and other essential operational support functions, that accept, store, and process goods, and that facilitate their transportation and delivery
9. Workers distributing, servicing, repairing, installing residential and commercial HVAC systems, boilers, furnaces and other heating, cooling, refrigeration, and ventilation equipment.
10. Workers managing or servicing hotels or other commercial and residential buildings that are used for COVID-19 mitigation and containment measures, treatment measures, provide accommodation for essential workers, or providing housing solutions, including measures to protect homeless populations.
11. Workers responsible for the leasing of residential and commercial properties to provide individuals and families with ready access to available housing.
12. Residential and commercial real estate workers, limited to scheduled property viewings to a potential buying party. This does not extend to open-house viewings, nor viewings with more than one buying party at a time.

13. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities and critical sector services
14. Workers responsible for handling property management, maintenance, and related service calls who can coordinate the response to emergency “at-home” situations requiring immediate attention, as well as facilitate the reception of deliveries, mail, and other necessary services.
15. Workers supporting the entertainment industries, studios, and other related establishments such as establishments that provide content for professional broadcast, provided they follow COVID-19 public health guidance around physical distancing.
16. Workers that provide or determine eligibility for food, shelter, in-home supportive services, child welfare, adult protective services and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including family members)
17. Workers performing services in support of the elderly and disabled populations who coordinate a variety of services, including health care appointments and activities of daily living.
18. Workers who provide support to vulnerable populations to ensure their health and well-being including family care providers.
19. Workers providing dependent care services, particularly those whose services ensure essential workers can continue to work.
20. Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters.
21. Workers in laundromats, laundry services, and dry cleaners.
22. Workers providing disinfection services, for all essential facilities in essential sectors
23. Workers necessary for the installation, maintenance, distribution, and manufacturing of water and space heating equipment and its components.
24. Support required for continuity of services, including commercial disinfectant

services, janitorial/cleaning personnel, and support personnel functions that need freedom of movement to access facilities in support of front-line employees.

### Relevant sector guidance:

- [Cleaning & Waste Management for Residences 2/2020](#)
- [Essential/Emergency Personnel Providing Critical In-Home Services](#)
- [Home cleaning with COVID-19 positive individuals](#)
- [Recommended Strategic Approaches for COVID-19 Response for Individuals Experiencing Homelessness](#)
- [Flow Chart: COVID-19 Recommended Protocol for People Experiencing Homelessness](#)
- [Homeless Assistance Providers](#)
- [Immigrant Communities](#)
  - [Las Comunidades de Inmigrantes](#)

## Relevant guidance for all sectors

- [Face Coverings Guidance](#)
  - [Orientación Sobre el Uso de Mascarillas de Tela](#)
- [Self-Isolation for Older Adults and Those Who Have Elevated Risk](#)
  - [Aislamiento para Adultos Mayores y Personas que Tienen un Riesgo Elevado](#)
- [Employers, health care workers and workers in general industry](#)

Did you find what you were looking for?

**Yes**

**No**



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[What's open](#)

[Industry guidance](#)

[Local info and alerts](#)

**COVID-19 hotline**

**1-833-422-4255**

M-F 8AM-8PM, Sa-Su 8AM-5PM

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