Critical Infrastructure Industry Road Map

Do I qualify? 🎨

Does your business fall within a “Critical Infrastructure Category” as described on the Cyber Infrastructure and Security Agency (CISA) List found here? Or in the limited additional categories listed in Executive Order 2020-42 in Section 9?

2b I’M NOT SURE ❓

“I would encourage any business that is not sure if they’re life-sustaining to probably assume that they’re not.”
-Governor Gretchen Whitmer in a press briefing on March 26, 2020

Seek guidance and clarity from:
1. The Department of Labor and Economic Opportunity as instructed by Governor Whitmer at:
   a. LEO-Coronavirus@michigan.gov
2. Attorney General Nessel as instructed in JIC News Release 73:
   a. miag@michigan.gov

***Chances are that you will not receive a timely response, but it is important that you make an effort to ask so that you can demonstrate a desire to comply fully.

Final Note

You cannot use de minimis CISA activities to justify non-CISA activities
Example: A comic book store that remains open under the guise that because they sell some snacks and soda, they are providing critical infrastructure work under the food exception.
Analysis:
1. The comic book store is not necessary to sustain or protect life; 2. The workers in the comic book store are not providing critical infrastructure work, as defined in the EO and federal guidance; 3. The de minimis presence of food for sale does not alter the nature of the business or analysis.

Critical Infrastructure Industries Requirements

- Determine which of your employees are “Essential Critical Infrastructure Employees” and notify them as such in writing. You can find a template here. Exception: Businesses need not designate workers noted in section 5(a) of the executive order.
- Any in-person activities in your critical infrastructure business who are not necessary to “sustain or protect life”, must either cease or be performed from home (see section 5(b) of the executive order). Click here for further guidance.
- In-person “Essential Critical Infrastructure Employees” and the businesses they work for must adhere to additional safety standards laid out in section 5(c).
- Designate in writing all suppliers necessary to your critical infrastructure industry business.

Document

Document carefully which section you believe your business operations fall under and why you believe it fits this designation. Don’t stretch. Reason your decision out in writing and imagine having to defend it in the event of a legal challenge or question posed by the authorities. These categories in the CISA list are broad, but Executive Order 2020-42 describes them in the context of being “necessary to sustain or protect life.” Therefore, you should not consider this a low standard. The Governor has given limited further guidance in her FAQs found here.