Critical Energy Infrastructure
The National Conference of State Legislatures is the country’s most trusted bipartisan organization serving legislators and staff. We promote policy innovation, create opportunities for lawmakers to share knowledge and ensure state legislatures have a strong, cohesive voice in the federal system. We do this because we believe in the importance of the legislative institution and know when states are strong, our nation is strong.
Information on state policies and responses related to continuity of government, education, fiscal, elections, criminal justice and more.

Go to ncsl.org
- Federal Efforts
- Utility Perspective
- State Actions & Policy Options
COVID-19 Energy Sector Mitigation and Response

Kate Marks, Director of Preparedness and Exercises
Office of Cybersecurity, Energy Security and Emergency Response (CESER)

April 7, 2020
Energy workers are part of the Essential Critical Infrastructure Workforce
Emergency Support Function #12 - Energy

Activities

- Situational Awareness
- Damage Assessments
- Restoration Priorities
- Mutual Aid Support
- Unity of Message

Coordination

- Regulatory Relief Assistance
- Interdependency Analysis
- Cascading Impact Analysis
Collaboration with the Sector & Interagency

State, Local, Tribal and Territorial (SLTT) Governments

Sector Coordinating Councils (SCCs)

Federal Agencies

- NASEO (National Association of State Energy Officials)
- American Public Power Association
- NCSL (National Conference of State Legislatures)
- NGA (National Governors Association)
- NEMA (National Electrical Manufacturers Association)
- ESCC (Electricity Subsector Coordinating Council)
- FMCSA (Federal Motor Carrier Safety Administration)
- CISA (Cybersecurity and Infrastructure Security Agency)
- EPA (Environmental Protection Agency)
- GSA (General Services Administration)
- OSHA (Occupational Safety and Health Administration)
- U.S. Department of Energy Cybersecurity and Emergency Response
DOE’s COVID-19 Resources

• U.S. Secretary of Energy Dan Brouillette correspondence with Governors

• Coronavirus Website www.energy.gov/coronavirus-hub

• Weekly Energy Sector FAQs

• Battle Rhythm of calls with Industry and States

• Intergovernmental and External Affairs calls
Energy Emergency Assurance Coordinator Program

- Designated by the state as energy points of contact
- State and territory energy offices, Governors advisors, PUC staff, emergency managers, homeland security agencies
- Share information with DOE and other states during energy disruptions
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www.energy.gov/ceser
NCSL COVID-19 Webinar

April, 2020
The Edison Electric Institute (EEI) and its members are committed to full compliance with all laws and regulations and to maintaining the highest ethical standards in the way we do business. This commitment includes strict compliance with federal and state antitrust laws.
ESCC COVID-19 Public Resources

- ESCC Website
- ESCC Guidance on Assessing and Mitigating the Novel Coronavirus
- Coronavirus (COVID 19): Key Messages
ESCC COVID-19 Public Resources

- ESCC Guidance on Assessing and Mitigating the Novel Coronavirus
  - Accessing Quarantined & Restricted Environments
  - Control Center Continuity
  - Generation Operational Continuity
  - Mutual Assistance Preparation
  - Public & Internal Messaging
  - Supply Chain Challenges (PPE)
  - Telecom & IT Issues
Energy Workforce = Reliability

Essential Critical Infrastructure Workers
– DHS Guidance 2.0 and beyond
Mission Essential Workers


• WHO - Very small percentage of workforce across electric & gas utilities, nuclear plants.

• WHERE - Control rooms, closed environments.

• WHAT - Sequestration underway.

• WHY - Without testing, sequestration will fail.
Additional Resources

• Edison Electric Institute
  • Industry Response Center
  • Electric Companies & Pandemic Planning: What You Should Know

• National Conference of State Legislatures
  • Coronavirus (COVID-19) Resources for States

• National Governors Association
  • Coronavirus: What you need to know
  • Governor Guidance on the Energy Sector During COVID-19 Response
  • Overview of State Actions on Business Closure and Personal Movement Restrictions in Response to COVID-19
STATE ACTIONS AND POLICY OPTIONS

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THE ENERGY INDUSTRY & COVID-19

- Energy sector consists of several lifeline industries whose continued operation is critical to support essential services necessary to life, health, safety and security
  - Electricity
  - Natural gas
  - Petroleum (extraction, refining, pipelines, transportation, gas stations)

- Issues of immediate concern
  - Essential workforce definitions, including:
    - Critical manufacturing/supply chain to critical businesses
    - Exemptions from quarantines, curfews and other travel restrictions for timely movement of critical personnel between jurisdictions
  - Prioritized testing, PPE for essential workers
  - Prioritized access to cleaning supplies & disinfectants
  - Regulatory relief & waivers for fuel carrier standards
Coronavirus Aid, Relief and Economic Security Act offers around $2 trillion to combat the effects of the pandemic

- Creates $150 billion relief fund for state, local and tribal governments
  - Distribution will be based on population
  - 45% of a state’s funds are set aside for local governments
- $45 billion will go to the Disaster Relief Fund for immediate state, local and tribal needs

Energy specifics
- $900 million for the Low Income Home Energy Assistance Program (LIHEAP)
- DOE’s Office of Science receives $99.5 million to support research efforts
- DOE receives $28 million to prepare for and respond to the coronavirus
- NRC receives $3.3 million to prepare for and respond to the coronavirus
Essential Worker Designations

- **CISA guidelines** ([available here](#))
  - Includes 16 critical industries
  - Energy: electric power, natural gas, petroleum
- At least 29 states have designated “essential businesses” through executive orders, legislation or other state action
  - 25 explicitly designate energy/utilities
  - 16 refer directly to the CISA guidelines
  - **Minnesota** is the only state to have done so through legislation

- Explicitly include manufacturers of parts and supply chains relevant to essential business
  - AZ, CA, IL, IN, KS, MD, MA, NY, OH, WA, WV
- Essential workers given priority access to childcare services
- Exemptions from quarantines and other travel restrictions
FEDERAL GUIDANCE AND STATE ACTION

- **Motor Carrier Exemptions**
  - US DOT issued a National Emergency Declaration offering hours-of-service exemptions to commercial drivers providing direct assistance to COVID-19 relief efforts ([available here](#))
  - At least 8 states have temporarily suspended rules and requirements
    - AR, KS, MS, MT, NC, OK, SC, WA
    - Licensing, registration, certification requirements
    - Increase maximum allowable vehicle size and weight carried
    - Temporary waivers for certain taxes and fees and fuel tax permits
    - Apply only to carriers participating directly in relief efforts

- **Moratoriums on utility disconnections**
  - At least 21 states and DC have asked or required utilities to suspend disconnections for nonpayment
  - **Alaska, Maine & DC** passed legislation
  - Many prohibit disconnects and late payment fees
  - Some require affected customers to provide a signed statement, enter into a deferred payment plan
At least 26 state legislatures have suspended or postponed legislative sessions in response to the coronavirus.

Source: NCSL, as of April 1
COVID-19 response spending bills
- At least 12 states have enacted supplemental appropriations or rainy day fund transfers to address the crisis
- Another 9 state legislatures have passed similar bills and are awaiting governors signature
- Florida, Georgia, Kansas and Massachusetts all set aside some funding for home energy assistance programs

Essential worker designation
- Minnesota HB 4531 (enacted) – Comprehensive COVID-19 response bill, including supplemental appropriations. Defines “critical infrastructure” and “essential worker,” “including electricity, petroleum, and natural and propane gas,” and offers grants to childcare facilities that offer priority to those workers.
At least 10 states and DC have legislation that would address utility disconnections due to financial hardships resulting from COVID-19

- AK, CA, DC, LA, MA, ME, NJ, NY, OH, VT
- Limited to disconnections for nonpayment
- Restrict late fees
- Don’t relieve a customer of their obligation to pay

**Alaska** SB 241 (to the governor) – A comprehensive coronavirus response package that includes a moratorium on utility disconnections. Requires signed statement, deferred payment plan.

**Maine** SB 789 (enacted) – Provides the governor with the temporary power to, among other things, suspend utility disconnections.

**District of Columbia** Bill 718 (enacted) – Provides temporary authority to the executive branch to address critical needs and prohibits utility disconnections for nonpayment.
PRICE GOUGING

- Price gouging refers to when retailers and others take advantage of spikes in demand by charging exorbitant prices for necessities, often after a natural disaster or other emergency.
- **34 states, Guam, Puerto Rico, the US Virgin Islands and DC** have statutes or regulations defining price gouging during a disaster or emergency.
- In 2020, 12 states, Guam and DC have introduced legislation that would create or expand price gouging protections:
  - *Alaska, Maryland, Guam* and DC passed legislation.

*Source: NCSL, as of March 24*
Many states outline which state government employees are essential during emergencies and how they should be managed and compensated.

Most states don’t explicitly define “essential business” or “essential workforce” in emergency response statutes.

Often left up to the governor to make those designation for every emergency.

**West Virginia** includes “temporary restoration of public utility services” under its definition of “emergency services.”

**Louisiana** requires businesses to reach out to the state during an emergency to receive the necessary designation and credentials for its essential employees.

**North Carolina** grants utility workers access to restricted areas (such as those under curfew or quarantine) if the governor deems it necessary, while Florida specifically exempts those emergency utility workers and others from any such travel restrictions.

**Nevada** prioritizes the distribution of essential supplies and equipment to essential facilities, including utility restoration services.
EXISTING LAW – BUSINESS RAPID RESPONSE

- At least 23 states have business rapid response laws, which are particularly helpful in response to mutual assistance requests.
- These statutes facilitate the movement of out-of-state workers and businesses responding to mutual assistance requests during states of emergency.
- Laws typically for line crews in response to natural disasters.
- May apply to control room operators during COVID-19 response.
LOOKING AHEAD: LEGISLATIVE POLICY CONSIDERATIONS

- Review state emergency response statutes
  - The response to COVID-19 highlights the need for policies that support emergency preparedness and response. Legislation could provide needed assistance in future emergencies
- Essential business/worker definitions
  - Inclusion of utility workers, supply chain
  - Streamlined waiver/certification process
  - Exemptions to allow freedom of movement
- Business rapid response to declared disasters
- Business continuity planning requirements for critical infrastructure industries

- Response to financial implications of COVID-19
  - The national response has impacted the economy severely and the energy sector is no exception as demand for fuel and electricity drops and people lose jobs, leaving them unable to pay bills
  - Several issues may be considered in response:
    - Utility cost-recovery or securitization of spending in response to the emergency
    - Ability to defer lost revenues and manage socialization of costs due to low demand and widespread inability to pay for services
RESOURCES & CONTACT INFO

- **NCSL**: Coronavirus (COVID-19) Resources for States
- **U.S. Department of Energy**: Coronavirus Hub
- **Electricity Subsector Coordinating Council**: Novel Coronavirus
- **National Governors Association**: COVID-19, What You Need to Know
- **National Association of Regulatory Utility Commissioners**: State Response Tracker
- **Edison Electric Institute**: Electric Companies and Pandemic Planning
- **American Public Power Association**: Information about COVID-19
- **American Gas Association**: COVID-19 Resources
- **American Petroleum Institute**: Pandemic Resources & Information
- **American Fuel & Petrochemical Manufacturers**: Q&A on COVID-19
- **Nuclear Energy Institute**: How the Nuclear Industry is Responding

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Questions and Answers

Please type your questions into the chat box in the lower left-hand corner of your screen.
ADDITIONAL LINKS FROM AUDIENCE CHAT BOX (LIVE RECORDING)

U.S. Department of Energy
- Energy Sector Response Efforts & FAQs
- U.S. Energy Information Administration, Short-Term Energy Outlook

Edison Electric Institute
- Website: Industry Response Center
- Industry Statement on Disconnects: EEI Member Companies Suspend Electricity Disconnects
- Electricity Companies & Pandemic Planning, What You Should Know

Electricity Subsector Coordinating Council
- Website: https://www.electricitysubsector.org/
- Assessing and Mitigating the Novel Coronavirus (COVID-19) Resource Guide
COVID-19 WEB PAGE

Go to:

www.ncsl.org or