

Trump, OSHA, CDC Work to Keep Meat and Poultry Producers Safely Open

PUBLISHED ON
April 29, 2020

On the heels of a federal complaint filed against Smithfield Foods, the federal Occupational Safety and Health Administration (OSHA) and the Centers for Disease Control and Prevention (CDC) [issued extensive guidance Sunday](#) on measures food processors should take to protect their employees from the virus. And Tuesday, President Donald Trump invoked the Defense Production Act declaring meat processing to be critical infrastructure.

The complaint against Smithfield Foods claimed the food processor created a public nuisance and failed to protect its workers from the COVID-19 virus at a plant in Missouri.

OSHA and the CDC recognize food-processing businesses are part of the critical infrastructure within the food and agriculture sector. The president's executive order cites local closures of meat processing plants as a threat to "the continued functioning of the national meat and poultry supply chain, undermining critical infrastructure during the national emergency." In light of these declarations, the joint guidance provides a 10-page blueprint on how to continue these essential operations while implementing precautions to keep employees safe in light of the COVID-19 pandemic.

These measures are recommendations, not mandates. However, coupled with [Pennsylvania's order for workplace safety measures](#), many of these recommendations must be implemented in food processing workplaces operating in Pennsylvania. In addition, in the case of litigation involving food processors, strictly following this joint guidance is important. According to the U.S. Department of Labor, "[w]here a meat, pork, or poultry processing employer operating pursuant to the President's invocation of the DPA has demonstrated good faith attempts to comply with the Joint Meat Processing Guidance and is sued for alleged workplace exposures, the Department of Labor will consider a request to participate in that litigation in support of the employer's compliance program. Likewise, the Department of Labor will consider similar requests by workers if their employer has not taken steps in good faith to follow the Joint Meat Processing Guidance."

OSHA and the CDC urge food processors to develop a COVID-19 assessment and control plan, and identify knowledgeable workplace coordinators who communicate the plan to employees and public health agencies, identify risks and prevention strategies, evaluate control measures and serve as a point of contact for sick employees. The goals of the plan are to eliminate hazards, install engineering controls and implement appropriate cleaning, sanitation and disinfection practices to protect workers.

Among the recommended engineering controls:

- Configure the work environment for safe social distancing, spacing workers six feet apart. Modify workstations so

that workers do not face one another or, if they do, use physical barriers such as strip curtains, plexiglass barriers or other impermeable partitions to separate workers. Use markings and signs to maintain social distancing.

- Ensure adequate ventilation to minimize exposure. Minimize air from fans blowing across workers. Remove personal cooling fans
- Place adequate handwashing stations or hand sanitizers with at least 60% alcohol, preferably hands free, in multiple locations.
- Add more clock-in and clock-out stations and consider staggered start and end times to reduce crowding at time clocks, lockers and break areas.
- Rearrange break rooms to increase worker separation, avoid workers sitting across from one another and identify overflow areas and outdoor spaces for breaks and meals.

Among the recommended administrative controls:

- Promote social distancing by encouraging single-file movement with a six-foot distance between workers throughout the plant. Stagger break times and stagger arrival and departure times. Provide floor marker and signage to maintain social distancing. Encourage workers to avoid carpooling or to follow cleaning protocols, mask usage, and limit the number of people per vehicle. Modify production lines. Stagger workers across shifts or add shifts.
- Review leave and incentive policies to make sure sick workers are not in the workplace. Modify leave policies so that employees are not penalized for taking leave for COVID-19 reasons. Adopt temporary flexible leave policies to allow employees to advance leave or donate leave to other employees.
- Cohort employees into small working units where possible to limit COVID-19 transmission and quarantining.
- Provide additional soap stations and hand sanitizer locations (preferably hands free) and promote personal hygiene and cough and sneeze etiquette
- Promote the use of cloth face coverings, especially if social distancing is not possible or feasible. If cloth face coverings become wet, soiled or visibly contaminated, employers should provide readily available, clean face coverings.
- Train employees in their preferred language on the signs and symptoms of COVID-19, how it spreads and how workers can protect themselves, proper handwashing practices and use of hand sanitizers, cough and sneeze etiquette, social distancing and other infection control precautions.
- Use posters provided by the CDC translated into different languages.

In addition, meat and poultry processing employers should follow recommended cleaning protocols to ensure tools, workspaces, and frequently touched surfaces are often cleaned and sanitized, and assure workers who perform cleaning services wear appropriate personal protective equipment.

Meat and poultry processing employers should implement screening and monitoring protocols, including screening workers before entering the plant, managing sick workers, develop criteria for return to work of exposed and recovered workers with COVID-19, following the latest CDC guidelines and state and local public health authority

criteria.

Finally, food processing employers should review and update their mandatory hazard assessments and provide personal protective equipment to protect workers in light of hazards posed by the COVID-19 pandemic. In addition to employees' standard equipment, employees may need additional protective equipment based on the facility's hazard assessment such as masks, face shields, gloves, and eye protection. Instruct employees on how to properly use, don and doff, clean, sanitize and store the new equipment.

If you have any questions on these latest developments, please [contact me](#) or any members of our [Employment Practice Group](#) or our [Food & Agribusiness Industry Group](#). **DISCLAIMER:** As we face an unprecedented time of legal and business uncertainty, we are working to provide updates on the status of important legal news related to COVID-19. It is important to note that the situation is changing rapidly and the information provided in our alerts is not intended to create an attorney-client relationship. The information contained in our alerts is for general informational purposes only and should not be construed as legal advice or a substitute for legal counsel. If you have questions about your legal situation or about how to apply information contained in this alert to your situation or about how any other information found on our website may affect your business, you should reach out to one of our attorneys. We assume no responsibility for the accuracy or timeliness of any information provided herein or by any linked site. As information changes rapidly, users are strongly advised to verify any information before relying upon it.

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