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MEMORANDUM

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Re: COVID-19 Update: CDC and OSHA Release Interim Guidance for Manufacturing Workers and Employers

The Centers for Disease Control and Prevention (CDC) has issued *Interim Guidance from CDC and the Occupational Safety and Health Administration (OSHA), Manufacturing Workers and Employers* (the Interim Guidance), which provides recommendations related to COVID-19 transmission considerations for manufacturing workers and employers.¹ This Interim Guidance is in most parts the same as the previously issued CDC/OSHA joint interim guidance for meat and poultry workers and employers, with only a few minor additions.² Of note, the Interim Guidance lists an expanded set of potential COVID-19 symptoms to use when screening workers: fever, cough, or shortness of breath or difficulty breathing, fever, chills, repeated shaking with chills, muscle pain, headache, sore throat, and new loss of taste or smell. The Interim Guidance applies to a number of manufacturing industries, including food processing facilities.³

CDC and OSHA Interim Guidance for Manufacturing Workers and Employers

The Interim Guidance reiterates that some manufacturing facilities are part of the nation's critical infrastructure and that CDC "advises that critical infrastructure workers may be permitted to continue work following potential exposure to COVID-19, provided they remain asymptomatic and additional precautions are implemented to protect them and the community."⁴ The Interim Guidance also references, however, outbreaks of COVID-19 among manufacturing workers and states that the risk of potential exposure depends on several factors, including distance between workers, duration of

¹ Interim Guidance from CDC and OSHA for Manufacturing Workers and Employers (last upd. May 12, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-manufacturing-workers-employers.html> [hereinafter Interim Guidance].

² See *HL Memo COVID-19 Update: CDC and OSHA Release Interim Guidance for Meat and Poultry Processing Workers and Employers* (April 27, 2020), available at <https://bit.ly/2TfdFpd>.

³ This memorandum is offered for general information and educational purposes. It is not offered as, intended as, and does not constitute legal advice. It is not intended to create, and receipt of it does not constitute, a lawyer-client relationship.

⁴ CDC advises that facilities that are not part of the critical manufacturing sector should follow the CDC Public Health Recommendations for Community-Related Exposure following a workers' potential exposure to COVID-19 (March 30, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>.

contact, type of contact, and other distinctive factors that tend to cause increase in the frequency or time of exposure.

CDC recommends that manufacturing facilities take measures to reduce COVID-19 risks. CDC emphasizes that facilities should follow CDC's recommendations as well as recommendations by local state and local health officials. The Interim Guidance reiterates many already identified mitigation measures, including social distancing, engineering controls to minimize potential contact, protective gear and face coverings, shift staggering, health screenings, training and awareness, and financial incentives not to report to work sick.

The strategies recommended in the Interim Guidance are summarized below, following the organization used in the Interim Guidance:

Create a COVID-10 Assessment and Control Plan

- A qualified workplace coordinator should be identified who will be responsible for COVID-19 assessment and control planning. All workers in the facility should know how to contact the identified coordinator with any COVID-19 concerns.
- Infection control and occupational safety and health plans should apply to anyone entering or working in the plant (e.g., all facility workers, contractors, and others).
- Facility management should reach out to state and/or local public health officials and occupational safety and health professionals and establish ongoing communications to make sure they are getting relevant and up-to-date information concerning COVID-19.
- The workplace coordinators and management should also be aware of and follow all applicable federal regulations and public health agency guidelines.
- Worksite assessments to identify COVID-19 risks and prevention strategies should be done periodically. As part of these assessments, facilities should consider the appropriate role for testing and workplace contact tracing (identifying person-to-person spread) of COVID-19-positive workers in a worksite risk assessment, following available CDC guidance.⁵

Engineering Controls

- Configure work environments so that workers are spaced at least six feet apart.
- Modify workstations so that workers are at least six feet apart in all directions (e.g., side-to-side and when facing one another).
- Modify workstations so that workers do not face one another.
- Consider using markings and signs to remind workers to maintain their location at their station away from each other and practice social distancing on breaks.
- Use physical barriers, such as strip curtains, plexiglass or similar materials, or other impermeable dividers or partitions, to separate processing workers from each other.
- Consider consulting with a heating, ventilation, and air conditioning engineer to ensure adequate ventilation in work areas.
- Take steps to minimize air from fans blowing from one worker directly at another worker.
- Personal cooling fans should be removed to reduce the potential spread of any airborne or aerosolized viruses. If fans are removed, employers should take steps to prevent heat hazards.
- Place handwashing stations or hand sanitizers with at least 60% alcohol in multiple locations to encourage hand hygiene, preferable using touch-free devices.

⁵ See CDC Contact Tracing (last upd. April 30, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/php/open-america/contact-tracing.html>.

- Add additional clock in/out stations that are spaced apart to reduce crowding. Consider touch-free methods or staggering times for workers to clock in/out.
- Remove or rearrange chairs and tables or add partitions to tables to increase worker separation. Identify alternative areas to accommodate overflow volume for break and lunch areas.

Administrative Controls

Employers should do the following to promote social distancing:

- Limit facility access only to essential workers.
- If meetings must be held, such as at shift changes, break them into smaller groups instead of holding a larger meeting. Eliminate non-essential meetings.
- Encourage single-file movement with a six-foot distance between each worker.
- Designate workers to monitor and facilitate distancing on processing floor lines. This could include leveraging closed-circuit television systems to remotely view facilities versus physically visiting the locations.
- Stagger break times or provide temporary break areas and restrooms.
- Stagger workers' arrival and departure times to avoid congregations of workers.
- Provide visual cues (e.g., floor markings, signs) to remind workers to maintain social distancing.
- Encourage workers to avoid carpooling to and from work.
- If carpooling or using company shuttle vehicles is a necessity, the following control practices should be used as much as possible:
 - Limit the number of people per vehicle. This may mean using more vehicles.
 - Encourage employees to maintain social distancing.
 - Encourage employees to use hand hygiene before entering the vehicle and when arriving at the destination.
 - Encourage employees to wear cloth masks.
 - Clean and disinfect commonly touched surfaces after each carpool or shuttle trip.
 - Encourage employees to follow coughing and sneezing etiquette when in the vehicle.
- Consider staggering workers across shifts, e.g., splitting one shift into two or three shifts throughout a 24-hour period.
- Consider grouping workers together in the same shifts. This may help minimize the number of different individuals who come into close contact with each other. Grouping may also reduce the number of workers quarantined because of exposure.
- Establish a system for employees to alert their supervisors if they are experiencing signs or symptoms of COVID-19 or if they have had recent close contact with a suspected or confirmed COVID-19 case.
- Provide workers access to soap, clean running water, and single use paper towels for handwashing.
 - Provide alcohol-based hand sanitizers containing at least 60% alcohol if soap and water are not immediately available.
 - Place hand sanitizers in multiple locations to encourage hand hygiene, preferably touch-free.
- Consider other workplace programs to promote personal hygiene, e.g., building additional short breaks into staff schedules to increase how often staff can wash their hands with soap and water or use hand sanitizers.

The Use of Face Coverings⁶

- CDC recommends wearing cloth face coverings as a protective measure in addition to social distancing.⁷
- If cloth face coverings are worn, employers should provide readily available clean cloth face coverings (or disposable facemask options) for workers to use when the coverings become wet, soiled, or otherwise visibly contaminated.
- Employers who determine that cloth face coverings should be worn in the workplace, including to comply with state or local requirements for their use, should ensure the cloth face coverings:
 - Fit over the nose and mouth and fit snugly but comfortably against the side of the face;
 - Are secured with ties or ear loops;
 - Include multiple layers of fabric;
 - Allow for breathing without restriction;
 - Can be laundered using the warmest appropriate water setting and machine dried daily after the shift, without damage or change to shape;
 - Are not used if they become wet or contaminated;
 - Are replaced with clean replacements, provided by the employer, as needed;
 - Are handled as little as possible to prevent transferring infectious materials to the cloth; and
 - Are not worn with or instead of respiratory protection when respirators are needed.

Worker and Supervisor Education and Training⁸

- Supplement workers' normal and required job training (e.g., training required under OSHA standards) with additional training and information about COVID-19, recognizing signs and symptoms of infection, and ways to prevent exposure.
- All communication and training should be easy to understand and should be provided in appropriate languages, at the appropriate literacy level, and include information about:
 - Signs and symptoms of COVID-19, how it spreads, risks for workplace exposures, and how workers can protect themselves;
 - Proper handwashing practices and use of hand sanitizer stations;
 - Cough and sneeze etiquette; and
 - Other routine infection control precautions (e.g., signs and symptoms of COVID-19, putting on or taking off masks or cloth face coverings and social distancing measures).

⁶ The Interim Guidance notes that **cloth face coverings are not personal protective equipment (PPE)**, and are not appropriate substitutes for PPE such as respirators (e.g., N95 respirators) or medical facemasks (e.g., surgical masks) in workplaces where respirators or facemasks are recommended or required to protect the wearer.

⁷ See Use of Cloth Face Coverings to Help Slow the Spread of COVID-19 (Apr. 13, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>.

⁸ The Interim Guidance indicates that OSHA is providing enforcement discretion around completion of training and other provisions in its various standards. OSHA has instructed its Compliance Safety and Health Officers (CSHOs) to evaluate whether an employer has made a good faith effort to comply with applicable OSHA standards and, in situations where compliance was not possible given the ongoing pandemic, to ensure that employees were not exposed to hazards from tasks, processes, or equipment for which they were not prepared or trained.

- Employers should place simple posters in areas likely to be seen in the languages common to the worker population that encourage staying home when sick, cough and sneeze etiquette, and proper hand hygiene practices.
- Employers should post signs that can be read from a far distance (or use portable, electronic reader boards) that inform visitors and workers of social distancing practices.

Reviewing leave and incentive policies

- Monitor and respond to absenteeism by implementing plans to continue essential business functions in cases of higher than usual absenteeism.
- Review leave and incentive policies:
 - Analyze sick leave policies and consider modifying them to make sure that ill workers are not in the workplace. Make sure that employees are aware of and understand these policies.
 - Analyze any incentive programs and consider modifying them so that employees are not penalized for taking sick leave if they have COVID-19.
 - Additional flexibilities might include giving advances on future sick leave and allowing employees to donate sick leave to each other.

Cleaning and disinfecting plants and shared spaces

- For tool-intensive operations, employers should ensure tools are regularly cleaned and disinfected, at least as often as workers change workstations or move to a new set of tools.
- Establish protocols and provide supplies to increase the frequency of sanitization in work and common spaces.
- Disinfect frequently touched surfaces in workspaces and break rooms (e.g., microwave or refrigerator handles or vending machine touchpads) at least once per shift.
- Workers who perform cleaning and disinfection tasks may require additional Personal Protective Equipment (PPE) and other controls to protect them from chemical hazards posed by disinfectants.
- Employers should confirm their written hazard communication program and training is up to date and in conformance with all relevant OSHA guidance.

PPE

- Employers must conduct a hazard assessment to determine if hazards are present, or are likely to be present, for which workers need PPE. OSHA's PPE standards⁹ require employers to select and provide appropriate PPE to protect workers from hazards identified in the hazard assessment. The results of that assessment will be the basis of workplace controls (including PPE) needed to protect workers.
- Employers should use visual demonstrations of proper PPE usage and emphasize care such that the PPE does not become contaminated.
- PPE should be either disposable or able to be properly disinfected and stored when not in use.
- Face shields may serve as both PPE and source control.
- When PPE is needed, employers should consider additional hazards created by poorly fitting PPE (e.g., mask ties that dangle or catch, PPE that is loose and requires frequent adjustment or tends to fall off) with respect to the work environment (e.g., machinery in which PPE could get caught).

⁹ See 29 C.F.R. Part 1910, Subpart I.

Screening Workers Before Entering the Plant

- Consider developing (in conjunction with local public health authorities) and implementing a comprehensive screening and monitoring program aimed at preventing the introduction of COVID-19, including screening before entry into the workplace, criteria for return to work of exposed and recovered employees, and criteria for exclusion of sick workers.
- Options to screen workers for COVID-19 symptoms include:
 - Screening prior to entry into the facility.
 - Verbally screening to determine whether workers have had symptoms including a cough, shortness of breath or difficulty breathing, fever, chills, repeated shaking with chills, muscle pain, headache, sore throat, and new loss of taste or smell in the past 24 hours.¹⁰
 - Checking temperatures of workers at the start of each shift to identify anyone with a fever of 100.4°F or greater (or reported feelings of feverishness). Ensure that screeners:
 - Do not let employees enter the workplace if they have a fever of 100.4°F or greater (or reported feelings of feverishness), or if screening results indicate that the worker is suspected of having COVID-19.
 - Encourage sick workers to self-isolate and contact a healthcare provider;
 - Provide sick workers information on the facility's return-to-work policies and procedures; and
 - Inform human resources and supervisor of sick workers (so worker can be moved off schedule during illness and a replacement can be assigned, if needed).
- All personnel conducting screening should be trained to use equipment, and should be provided with appropriate PPE, e.g., gloves, gown, face shield, face masks.

Managing Sick Workers

- Workers who appear to have symptoms (e.g., fever, cough, or shortness of breath or difficulty breathing, fever, chills, repeated shaking with chills, muscle pain, headache, sore throat, and new loss of taste or smell) upon arrival at work or who become sick during the day should immediately be separated from others at the workplace and sent home.
- Ensure that personnel managing sick employees are appropriately protected from exposure, including appropriate PPE.
- If a worker is confirmed to have COVID-19, employers should inform anyone they have come into contact with of their possible exposure to COVID-19 but should maintain confidentiality as required by the Americans with Disabilities Act (ADA).
- If a worker becomes or reports being sick, disinfect the workstation used and any tools handled by the worker.
- Work with state, local, tribal, and/or territorial health officials to facilitate the identification of other exposed and potentially exposed individuals, such as coworkers in a plant.
- On-site healthcare personnel should follow appropriate CDC and OSHA guidance for healthcare and emergency response personnel.

¹⁰ Of note, the Interim Guidance states the following, "Employers should evaluate the burdens and benefits of recording workers' temperatures or asking them to complete written questionnaires. **These types of written products become records that must be retained for the duration of the workers' employment plus 30 years.** See OSHA's Access to Employee Exposure and Medical Records standard 29 CFR 1910.1020."

Developing Return-to-Work Plans

- Reintegration of exposed, asymptomatic workers should follow the CDC Critical Infrastructure Guidance and the CDC Interim Guidance “Discontinuation of Isolation for Persons with COVID-19 Not in Healthcare Settings.”¹¹ Consultation with an occupational health provider and state and local health officials will help employers develop the most appropriate plan.
- Workers with COVID-19 who have symptoms and have stayed home (home isolated) should not return to work until they have met the criteria to discontinue home isolation,¹² and have consulted with their healthcare providers and state and local health departments.

Workers’ Rights

- The Interim Guidance reminds employers and employees that the Occupational Safety and Health Act of 1970 prohibits employers from retaliating against workers for raising concerns about safety and health conditions.
- The Interim Guidance notes that OSHA provides recommendations intended to assist employers in creating workplaces that are free of retaliation and guidance to employers on how to properly respond to workers who may complain about workplace hazards or potential violations of federal laws.

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We will continue to monitor the federal government’s response to COVID-19. Should you have any questions or if we can be of assistance with your COVID-19 response strategy, please do not hesitate to contact us.

¹¹ Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19 (Apr. 20, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>; see also Discontinuation of Isolation for Persons with COVID-19 Not in Healthcare Settings (Apr. 10, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html>.

¹² Discontinuation of Isolation for Persons with COVID-19 Not in Healthcare Settings (Apr. 10, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html>.