



# 5-Step Best Practices Plan For Reopening Manufacturing Facilities

Insights

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Although COVID-19 remains a significant public health concern, companies throughout the country have reopened their manufacturing facilities. As they reopen, companies should follow certain best practices to ensure the safety of their employees and avoid potential liability. Here is a five-step best practices plan to put your company – and your employees – in the best position to succeed.

## 1. Comply With State And Local Laws

You should check the state and local laws of each jurisdiction where you have manufacturing facilities. Local regulations may entirely prohibit businesses from reopening. These regulations — often promulgated by executive orders or public health department directives — change constantly and may vary widely from state-to-state, or even city-to-city.

If applicable laws give manufacturers the green light to reopen their plants, you must comply with the relevant health and safety standards of the jurisdiction. Regulations may include requiring face masks and temperature checks for employees, as well as other workplace screening rules. You can refer to [this overview of some of the state-by-state rules](#).

Importantly, general labor and employment laws and administrative regulations such as the Occupational Safety and Health Act of 1970 and the Fair Labor Standards Act all remain in force and, unless otherwise indicated, state and local laws cannot supersede federal laws.

## 2. Follow CDC Guidelines

Even in the absence of mandatory regulations, manufacturers should implement baseline health and safety policies for all employees. Following the published guidelines of the Centers for Disease Control and Prevention (CDC) allows businesses to protect employees with clear and consistent rules across jurisdictions. Adopting the CDC recommendations also saves employers the time and expense of crafting their own unique policies. Although the case law remains far from settled, the trend thus far suggests that compliance with CDC guidance may serve as a defense to civil liability.

The current CDC guidelines for manufacturing facilities [may be found here](#). These guidelines include steps to reduce unnecessary physical contact between employees, restrict movement and access to facilities (for both employees and visitors), encourage all individuals to wear masks and frequently wash their hands, and introduce novel methods of screening and monitoring workers. Managers and supervisors should read these rules carefully and enforce them accordingly.

In addition to the CDC guidelines, California employers should also refer to [state government guidance](#).

### **3. Follow Manufacturer-Specific Best Practices**

The Manufacturing Leadership Council of the National Association of Manufacturers recently published [a guide of best operational practices for manufacturers to consider implementing](#) in light of the ongoing pandemic. The recommendations include the following:

- Manufacturers should mitigate potential exposure to COVID-19 by limiting facility access to only critical personnel;
- Manufacturers that conduct temperature screenings should send home any employee with a body temperature above 100.4° F;
- To the extent possible, manufacturers should rearrange work stations and assembly lines to limit close contact between employees, with employees staying six feet apart from one another; and
- Manufacturers should consider rearranging schedules to stagger ingress and egress to the facility to limit close contact between workers.

### **4. Adopt Illness Response Strategies**

Manufacturers need to prepare a swift response in the event of a COVID-19 outbreak at one of your facilities. You may need to entirely shut down operations for a temporary period of time to allow for thorough cleaning and sanitation. You should also implement a system of contact tracing to notify potentially exposed employees. These policies should comply with all HIPAA privacy requirements and other applicable laws.

### **5. Monitor – But Don't Count On – Liability Reduction**

Certain states are considering adopting laws to limit COVID-19-related liability for manufacturers of healthcare equipment and other supplies used to fight the pandemic. However, Congress has not passed any federal laws to provide blanket COVID-19 immunity, and it unclear whether it will do so.

Therefore, you should proceed under the assumption that you may be held liable for any harm to your employees, customers, and guests incurred as a result of negligence of your actions – or lack thereof. You should stay informed regarding any statutory changes in this area and be prepared to adapt to any necessary changes that will best protect your workforce.

### **Conclusion**

Fisher Phillips will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information.

Fisher Phillips has a dedicated manufacturing practice group that can help manufacturers prepare for the challenges created by reopening during the ongoing pandemic. For further information,

contact your Fisher Phillips attorney or any member of [our Post-Pandemic Strategy Group Roster](#). You can also review our [FP BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers](#) and our [FP Resource Center For Employers](#).

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*This Legal Alert provides an overview of a specific developing situation. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.*

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