



CAL/OSHA Provides Guidance On COVID-19 Infection Prevention For Agricultural Industry

Insights

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The California Department of Industrial Relations Division of Occupational Safety & Health (DOSH), or Cal/OSHA, just issued guidance for employers on COVID-19 infection prevention for agricultural workers. While the U.S. Food and Drug Administration (FDA) and the California Department of Public Health (CDPH) have both recently stated that they are unaware of any reports suggesting COVID-19 can be transmitted by food or food packaging, the agencies still encourage practices and behaviors to prevent food handlers from spreading contaminants including viruses to food and amongst themselves.

Consequently, Cal/OSHA's guidance directs agricultural employers to update their Injury and Illness Prevention Programs (IIPP) to include preventing the spread of COVID-19 in the workplace. Cal/OSHA's regulations require employers to protect their employees from all worksite hazards, including infectious diseases such as COVID-19, and specifically require employers to have IIPPs to facilitate such protections. While the agency states it is not adding any new legal obligations with this guidance, agricultural employers should heed the recommendations therein given that the virus's widespread nature is indisputable.

What Is An IIPP?

Title 8 of the California Code of Regulations section 3203 requires every employer to develop an IIPP that effectively improves the health and safety of workplaces. Key elements to IIPPs as outlined by Cal/OSHA include responsibility, compliance, communication, hazard assessment, accident/exposure investigation, hazard correction, training and instruction, and recordkeeping. As employers across any industry know, no policy is effective without full involvement from employees, supervisors, and management, proper and prompt identification of the issues the policy applies to, and adequate training. It is no surprise that most California workplaces must now consider COVID-19 to be a workplace hazard that employees are exposed to. Therefore, agricultural employers must implement effective new procedures addressing the requisite elements.

How Should Employers Change Current IIPPs For COVID-19?

There are four facets to modifying IIPPs to address this easily spread and sustained virus: personal sanitation practices, individual physical distancing practices, universal procedures to prevent the spread, and training on the virus and all corresponding procedures.

Personal Sanitation

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This should come as no surprise given that the United States Centers for Disease Control and Prevention (CDC) has maintained since the virus's inception that hand-washing, including the use of hand sanitizer, is of primary importance. Agricultural employers therefore must make hand-washing facilities located at or near restrooms readily accessible to employees at all times, ensure restrooms are clean and sanitary, provide and proactively replenish soap, other cleansing agents, and single-use towels placed as close to work areas as possible to allow for frequent hand-washing. Employers must allow employees enough time for frequent hand-washing to facilitate continued good sanitation practices. Employers that pay their employees a piece rate must keep in mind that time spent hand washing will be considered non-productive time, and therefore must pay the employees on an hourly basis for that time.

Physical Distancing

Limiting contact between people by maintaining a distance of at least six feet from other people is a control measure that can slow or stop the spread of this infectious disease. Agricultural employers should practice physical distancing with their workforces whether indoors, in vehicles, or structures/buildings.

Employers should establish work stations, additional seating and shade structures for breaks at a safe distance, stagger break and lunch times, limit crew size by staggering or increasing the number of work shifts, adjust any line speed to enable employees to maintain at least six feet from one another while working, and establish a location for receiving deliveries away from high-traffic areas and housing away from the farm. Specific instructions should be created for suppliers and customers to complete drop-offs and deliveries at locations near the road rather than the farm and create signage to identify such drop-off points.

Employers who house agricultural workers should encourage their employees to avoid large gatherings during non-work hours, practice physical distancing in housing, and quarantine any housed worker exhibiting symptoms.

Procedures To Help Prevent The Spread At The Worksite

CDC Guidance for Businesses and Employers to Plan and Respond to the disease are also applicable to agricultural employers. For example, employers should send home or send to medical care any employees with exhibiting acute respiratory illness symptoms, encourage any sick workers to stay home by not punishing them for missing work, establish procedures for notifying local health officials when an employee is infected, make hand-washing stations more readily available, and establish procedures to regularly clean and disinfect commonly touched surfaces such as steering wheels, shared tools, door handles, seat belts, and shared work stations.

To make the aforementioned possible, employers should educate employees on available benefits they can access if they are prevented from working due to illness or caring for an ill family member. Cal/OSHA advises employers that hand-washing is compensable as nonproductive time for piece-rate workers, and that EPA approved products for use against the virus, including EPA-registered

disposable wipes, should be included in the procedures and provided to employees to support cleaning and disinfection of communal surfaces.

Employee Training

Clear understanding of the policies and procedures and training on how to effectively implement them is paramount to achieving peak compliance and safety. Agricultural employers must train employees in an explicit, straightforward way on California's Covid-19 Response webpage for resources in English and Spanish, as well as the CDC information related to COVID-19, specifically "What is COVID-19 and how is it spread," "Preventing the spread of COVID-19 if you are sick," "Symptoms of COVID-19 and when to seek medical attention."

Further, employers must reinforce the importance of hand-washing, not coming to work if employees have symptoms such as frequent cough, difficulty breathing, fever, or have had close contact with someone diagnosed with COVID-19, and limiting close contact with others through physical distancing.

Employees should therefore be specifically trained on following CDC guidelines to wash hands for 20 seconds at minimum when employees arrive at work, before they leave work, before and after eating or using the restroom, after sneezing or blowing nose, after close interaction with another person, after contact with shared tools and surfaces, and before and after wearing masks or gloves. While hand sanitizer can and should be used if a hand-washing station is unavailable, employers should emphasize in training that hand sanitizer is not as effective as hand-washing. Training should include coughing and sneezing etiquette by covering a cough or sneeze with a tissue or a sleeve, and other methods to avoid touching mouth, nose, and eyes.

Last, employers must train employees on the safe use of cleaners and disinfectants on surfaces and objects by carefully following label directions, wearing personal protective equipment such as gloves, and continually assessing the hazards of any cleaners and disinfectants at the worksite. If available, employers should also provide respirators to agricultural workers when needed to protect workers against dust, the source of Valley Fever, and other harmful agents, even though health experts do not recommend the use of respirators for the general workforce for COVID-19. Employer training should implement transparency and open communication regarding the employer's procedures to protect employees from COVID-19, as well as available resources for further information on any of the topics covered.

You have updated Your IIPP For COVID-19 – Now What?

As new information regarding the novel COVID-19 virus is shared with each passing day -- including new updates on its spread, prevention, and treatment – employers should keep in mind that this informal guidance will certainly evolve. While the continual changes may dispel some employers from taking specific action in the hopes it changes, the CDC is clear that the virus is transmitted mainly from person-to-person.

As a result, sanitation practices, physical distancing, and other incidental practices to prevent the spread amongst workers are vital to protect your business and workforce. To determine whether your updated IIPP is effective, ensure employees are aware of the person with responsibility for the COVID-19 updated program, recognize employees for performing compliant, healthful COVID-19 practices, discipline employees for unsafe practices, provide training and re-training on compliant practices, encourage knowledge and use of communication methods to inform management of any issues, and continually monitor the procedures to determine the cause of any accidents, unforeseen hazards, and workplace understanding of improvements in the above mentioned safe and healthful worksite practices.

Conclusion

We 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. For further information, or assistance in preparing an IIPP in light of the aforementioned guidance, contact your Fisher Phillips attorney, any attorney in [our California offices](#), or any [member of our COVID-19 Taskforce](#). You can also review our nationwide [Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus](#) and our [FP Resource Center for Employers](#), maintained by our Taskforce.

This Legal Alert provides an overview of a 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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