

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

Email Pulver to Glass (Aug. 11, 2021)

Record No. OSHA1453-55

From: [Mccoy, Todd - OHS, Washington, DC](#)
To: [Mccoy, Todd - OHS, Washington, DC](#)
Subject: IFSCT Call - Follow Up & Feedback Requested
Date: Tuesday, June 30, 2020 2:15:56 PM
Attachments: [NBEOC Snapshot - COVID-19 #105 \(FINAL 6.26.20\).pdf](#)

IFSCT Members,

Below are two follow up items and **one action item** from this morning's call:

- Attached is the National Business Emergency Operations Center (NBEOC) Snapshot referenced in our discussion.
- [Protecting Seafood Processing Workers from COVID-19](#) – This is the recent guidance for seafood industry employers that was developed jointly by CDC, OSHA and FDA.
- **ACTION** – If you cannot participate in the smaller working group session, we still want to hear from you.
 - **Click [here](#) to provide your feedback on the IFSCT.**

Thank you for your continued efforts; your dedication to this critical work is greatly appreciated.

Best,
Todd



[Todd McCoy](#)
Emergency Management and Homeland Security Branch Chief (Acting)
Animal and Plant Health Inspection Service
United States Department of Agriculture
O: 202.720.5886
M: (b) (6)

-----Original Appointment-----

From: Mccoy, Todd - OHS, Washington, DC
Sent: Tuesday, June 16, 2020 10:16 AM
To: Interagency Food Supply Chain Team
Subject: USDA ESF #11 Interagency Food Supply Chain Team
When: Tuesday, June 30, 2020 8:00 AM-8:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: (b) (6)

Purpose: To mitigate National Food Supply disruptions by identifying challenges and developing solutions to lessen the negative cascading impacts of COVID-19 on the Food Supply Chain (FSC); including but not limited to, Emergency Protective Measures to safeguard public health (i.e. Workforce Safety, Community Mitigation, Personal Protective Equipment (PPE), etc.).

Frequency: Every Tuesday (weekly) from 8:00 AM to 8:30 AM ET.

Location: (b) (6)

Agenda:

- USDA ESF #11 IFSCT Opening Comments and Update – Todd McCoy
- ESF Updates
 - ESF # 6 – *Sarah Egan (FEMA)*
 - ESF # 10 – Stephanie Wenning (EPA)
 - ESF # 14 – Dana Ahrens or Bob Rutledge (DHS-CISA)
 - ESF # 15 – Dirk Fillpot (*USDA Office of Communications*)
- Recovery Support Functions – Debbie Hill (*USDA*)
- Working Group Updates
 - Analytics – Ted *Kaouk (USDA)*
- Issue/Challenge Area Updates
 - Depopulation and Carcass Removal
 - Fruit and Vegetable Impacts
 - Seafood and Fisheries
 - Other Issue Areas As Needed
- Interagency Partner Updates and Open Discussion
 - USDA Agencies
 - FEMA
 - FDA
 - CDC
 - OSHA
 - DOI
 - DOL
 - NOAA
 - BIA
 - DHS (Other than FEMA)
 - DOD Agencies

Background: The global COVID-19 pandemic and cascading supply chain impacts are unprecedented and there are unique challenges to the Food and Agriculture (FA) Sector including but not limited to worker safety; depopulation and carcass disposal; food production and processing; supply/demand/distribution; food security; cross-sector interdependencies; and related.

The FA Sector is composed of complex production, processing, and delivery systems and has the capacity to feed people and animals both within and beyond the boundaries of the United States. These food and agriculture systems are almost entirely under private ownership, operate in highly competitive global markets, strive to operate in harmony with the environment, and provide economic opportunities and an improved quality of life for American citizens and others worldwide. These factors contribute to unique challenges

related to disparate and disconnected data sources to inform FSC intelligence.

The continuity of critical infrastructure sectors, including the Food and Agriculture Sector, is not a given. Meat packing issues observed in recent weeks are the potential canary in the canary in the coal mine. There is a need to plan for secondary impacts of the pandemic such as increasing PPE demand and limited supply; demand for limited reagents to support operations (e.g., CO₂, quat ammonia); worker absenteeism; widespread testing and public health strategies to facilitate critical infrastructure continuity and develop a better, macro-level understanding of potential disruptions due to local impacts. Further issue complexities along the FSC continuum have arisen and become apparent due to the bifurcation of demand networks between store bought consumables and products intended for dine-in locations.

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Record No. OSHA1488

From: [Sweatt, Loren E. - OSHA](#)
To: [Brashears, Mindy - OSEC, Washington, DC](#)
Subject: RE: Inclement Weather
Date: Monday, June 1, 2020 9:33:00 AM

Yes, took a while to find the FEMA link.

[https://www.fema.gov/media-library-data/1589997234798-
adb5ce5cb98a7a89e3e1800becf0eb65/2020_Hurricane_Pandemic_Plan.pdf](https://www.fema.gov/media-library-data/1589997234798-adb5ce5cb98a7a89e3e1800becf0eb65/2020_Hurricane_Pandemic_Plan.pdf)

From: Brashears, Mindy - OSEC, Washington, DC <Mindy.Brashears@usda.gov>
Sent: Monday, June 1, 2020 9:28 AM
To: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Subject: RE: Inclement Weather

Is this a public document? Can we share it?

From: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Sent: Monday, June 1, 2020 8:59 AM
To: Brashears, Mindy - OSEC, Washington, DC <Mindy.Brashears@usda.gov>
Subject: RE: Inclement Weather

FEMA has some information (attached), but it is more on mass shelter issues. We're trying to figure out if we need a best practice document to address the kind of shelters you all are seeing.

From: Brashears, Mindy - OSEC, Washington, DC <Mindy.Brashears@usda.gov>
Sent: Monday, June 1, 2020 8:42 AM
To: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Subject: RE: Inclement Weather

Any progress on this?
Thanks.

From: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Sent: Thursday, May 28, 2020 8:21 PM
To: Brashears, Mindy - OSEC, Washington, DC <Mindy.Brashears@usda.gov>
Subject: Re: Inclement Weather

Thank you. A very interesting question. I'll get an answer ASAP.

On May 28, 2020, at 7:58 PM, Brashears, Mindy - OSEC, Washington, DC
<Mindy.Brashears@usda.gov> wrote:

Hello Loren! I hope all is well. I appreciate all of your help over the past few weeks.

I have a question for you from some of our processors. They are beginning to experience inclement weather and some have shelters, but they are unable to socially distance in the shelter. I am assuming this would fall in the "if feasible" category as the workers should be protected from a storm. However, I want to check with you to make sure.

They have suggested wearing masks in the shelter areas. Let me know what you think about this.

Thank you.

Mindy.

Get [Outlook for iOS](#)

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October 2021 Record Release

Email Pulver to Glass (Aug. 11, 2021)

Record No. OSHA1504

From: [Newsome, Shawna - OSEC, Washington, DC](#)
To: [Sweatt, Loren E. - OSHA](#)
Cc: [Reed, Jeremy Todd - FSIS](#); [Nintemann, Terri - FSIS](#)
Subject: RE: language for constituent update
Date: Friday, May 8, 2020 7:44:17 PM
Attachments: [Implementation of Executive Order 13917.docx](#)

I agree! Attached is the article that went out today to industry stakeholders.

Shawna Newsome

Office of Food Safety
Cell: (202) 684-5522

From: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Sent: Friday, May 8, 2020 2:54 PM
To: Newsome, Shawna - OSEC, Washington, DC <Shawna.Newsome@usda.gov>
Cc: Reed, Jeremy Todd - FSIS <jeremy.reed@usda.gov>; Nintemann, Terri - FSIS <terri.nintemann@usda.gov>
Subject: RE: language for constituent update

[Can you send us a copy for our files? Really appreciate the cooperative efforts!!](#)

From: Newsome, Shawna - OSEC, Washington, DC <Shawna.Newsome@usda.gov>
Sent: Friday, May 8, 2020 2:53 PM
To: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Cc: Reed, Jeremy Todd - FSIS <jeremy.reed@usda.gov>; Nintemann, Terri - FSIS <terri.nintemann@usda.gov>
Subject: RE: language for constituent update

Ok great. that will be going out today. Thanks!

Shawna Newsome

Office of Food Safety
Cell: (202) 684-5522

From: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Sent: Friday, May 8, 2020 2:47 PM
To: Newsome, Shawna - OSEC, Washington, DC <Shawna.Newsome@usda.gov>
Cc: Reed, Jeremy Todd - FSIS <jeremy.reed@usda.gov>; Nintemann, Terri - FSIS <terri.nintemann@usda.gov>
Subject: RE: language for constituent update

[Apologies for the delay. Please share with stakeholders!](#)

From: Newsome, Shawna - OSEC, Washington, DC <Shawna.Newsome@usda.gov>
Sent: Friday, May 8, 2020 12:58 PM
To: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Cc: Reed, Jeremy Todd - FSIS <jeremy.reed@usda.gov>; Nintemann, Terri - FSIS <terri.nintemann@usda.gov>
Subject: language for constituent update

Loren ,

May we use this language in a note that we are sending out to our stakeholders today?

OSHA has an [extensive consultation program](#) that offers no-cost and confidential occupational health and safety services in all 50 states. Though usually aimed at small- and medium-sized employers, OSHA has waived this size requirement for meat processing facilities during the national emergency. Facilities that need assistance in implementing the CDC/OSHA guidance in their facilities may [contact](#) their local consultation office.

Shawna Newsome

Chief of Staff

Office of Food Safety, USDA
1400 Independence Ave., SW
Washington, D.C. 20250

Cell: (202) 684-5522

Email: shawna.newsome@usda.gov

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Implementation of Executive Order 13917

[Executive Order](#) 13917, signed by President Trump on April 28, 2020, delegated to the Secretary of Agriculture the powers of the President under the Defense Production Act to take all appropriate action to ensure America's meat and poultry processors continue operations.

Maintaining the health and safety of plant employees in addition to ensuring continued operations and a plentiful food supply during this unprecedented time is paramount. Our Nation's meat and poultry processing facilities and workers play an integral role in the continuity of our food supply chain.

FSIS' mission is to inspect meat and poultry products to ensure that they are wholesome and safe. For this reason, USDA is partnering with the Centers for Disease Control and Prevention (CDC) and the Occupational Safety and Health Administration (OSHA) as they have the authority and expertise over public health and worker safety issues for plant employees.

Effective immediately, meat and poultry processing plants should utilize the [guidance](#) issued on April 26, 2020, by the CDC and OSHA specific to the meat and poultry processing industry to implement practices and protocols for safeguarding the health of their workers and the community while staying operational or resuming operations to the maximum extent possible. Should you need technical assistance, OSHA has an [extensive consultation program](#) that offers no-cost and confidential occupational health and safety services in all 50 states. Though usually aimed at small and medium sized employers, OSHA has waived this size requirement for meat processing facilities during the national emergency. Facilities that need assistance in implementing the CDC/OSHA guidance in their facilities may [contact](#) their local consultation office.

USDA, alongside our federal partners at CDC and OSHA, will continue to work with state and local officials to ensure that facilities are implementing best practices designed to mitigate the spread of COVID-19, while maintaining operations. Further action under the Executive Order and the Defense Production Act will be taken if necessary. If you have questions, please see the [FAQs](#) on the USDA website under the "President Trump's Executive Order" tab.

FSIS thanks establishments for ensuring that their employees will be able to continue working to provide Americans with an abundant, healthy, and safe food supply.

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Email Pulver to Glass (Aug. 11, 2021)

Record No. OSHA1557

From: [Mccoy, Todd - OHS, Washington, DC](#)
To: [Todd McCoy; hva6@cdc.gov; Adcock, Rebeckah - OSEC, Washington, DC; Alexander, M. Ross; Aucott, John - OHS, Washington, DC; Azama, Wesley - FPAC-BC, Washington, DC; Bamford, George; Beal, Mary Dee - OSEC, Washington, DC; Ben.Curran@fema.dhs.gov; Boon, Caitlin; Brown, Christopher K. - OSHA; Burrell, Sierra D - APHIS; Byrd, Anita - FPAC-BC, Washington, DC; Carter, Scott - FNS; Chmil, Holly - APHIS; Colby, Michelle - OHS, Washington, DC; CURREN, STEPHEN; Days-Austin, Rosalynn C - APHIS; Deener, Eugene - APHIS; Dennison, Kevin M - APHIS; Densel, Brock - AMS; DiMarco, Anthony V - APHIS; Dinsmore, Ben - FSIS; Elson, Stephen \(OGA\); Fantinato, Jessica - OHS, Washington, DC; Fillpot, Dirk - OC, Washington, DC; Gareth Westler -; Gfi9@cdc.gov; Hall, Ann - FNS; herbert.wolfe@hq.dhs.gov; Hill, Deborah - OHS, Washington, DC; Hortin, Steve - FNS; Hyde, Iain; Jeremiah Christopher -; John.Nelson@ios.doi.gov; Jon Halfon -; Kaouk, Ted - OCIO; Kelpis, Elizabeth D - APHIS; Kennedy, Andrew -; Kidd, Stephen - APHIS; Kohler, Dennis - APHIS; Krishna, Vidit - FSIS; Kristina.m.mcelroy2.civ@mail.mil; LeeAnne.Jackson@fda.hhs.gov; Lin, Merry S. EOP/WHO; Linsky, Scott - FPAC-BC, Washington, DC; Lott, James - FSIS; Marin, Steven; Marquart, Sarah - RD, Santa Maria, CA; Marquita.Hynes@fema.dhs.gov; Matt.Campbell@fema.dhs.gov; mcnichols@cdc.gov; Meadows, Carrie Vicenta; Miller, Lori P - APHIS; Moore, Larry - OC, Washington, DC; Moore, Melissa - FSIS; Mouw, Traci - FNS; Mullaney, Roxanne C - APHIS; Nichols, Megin C. \(CDC/DDID/NCEZID/DFWED\); nick.shufro@fema.dhs.gov; OpsCenter - OHS, Washington, DC; Parrott, Charles - AMS; Pulz, Jessica - OHS, Washington, DC; Ray, Jon - FPAC-FBC, Washington, DC; Rich, Michawn - OC, Washington, DC; Riedy, Michael J - APHIS; Rodgers, Meghan - OC, Washington, DC; Rooney, Jane A - APHIS; Rushin, Gerald L - APHIS; brian.peretti@cisa.dhs.gov; Rutledge, Robert; sarah.egan@fema.dhs.gov; Serach, Michael J - APHIS; Sheaffer, Geoffrey - OHS, Washington, DC; Shearer, Eugene; Sindall, Johanna; Smith, Todd L - APHIS; Stiefel, David - OHS, Washington, DC; Striegel, Megan; Sullivan, Christine - APHIS; Tate Bennett; Timmons, David - OHS, Washington, DC; Touhey, Lucy - FSIS; Walfrand, James - RD, Washington, DC; Walton, Ronald - RD, Washington, DC; Webster, Steven - FPAC-BC, Washington, DC; Wenning, Stephanie; Wiley, Sarah D. \(CDC/DDID/NCEZID/DFWED\); Willis, Samuel - OHS, Washington, DC; Wilson, Andrew B - APHIS; Wittrock, Mark; wiq3@cdc.gov; Woody, Joseph - RD, Knoxville, TN; Wortham, Jimmy W - APHIS; Zack, Jonathan T - APHIS; Pomeroy, Mary \(CDC/DDID/NCEZID/DFWED\); Maes, Jory; Hatch, Keith; Mann-Klager, Diane; PERETTI, BRIAN](#)
Cc: [Jonathan.White@hhs.gov; Alvares, Christopher - OCIO-CIO, Washington, DC; Bragg, Matthew P - APHIS; brian.killen@fema.dhs.gov; carolyn.strubel@fema.dhs.gov; Cody.Thornton@hhs.gov; Cote, Andrea - FSIS; FEMA-NRCC-valul@fema.dhs.gov; Hartley, Chris - REE-ERS, Washington, DC; janet.m.golrick@hud.gov; jason.gamble@fema.dhs.gov; John.D.Martin@cisa.dhs.gov; joshua.barnes@sba.gov; kimberly.alahmadi@fema.dhs.gov; Laura.Olson@fema.dhs.gov; LYnda.Lowe@sba.gov; mary.debacker@fema.dhs.gov; michael.benedict@bia.gov; micheel.burke@hq.dhs.gov; natalie.dybsky@fema.dhs.gov; NFriedman@eda.gov; Nohemi.Zerbi@cisa.dhs.gov; ppl2@cdc.gov; robert.morford@fema.dhs.gov; Ronca, Justin - FSIS; ryan_potosnak@ios.doi.gov; Southern, Kristal - FSIS; Stevens, Janet - FSIS; Tobin, Andrew - OE, Washington, DC; tyrone.brumfield@associates.fema.dhs.gov; tyrone.j.brumfield@usace.army.mil; william.tombaugh@fema.dhs.gov; zta4@cdc.gov; Mann-Klager, Diane; Nickerson, Cynthia - OCE, Washington, DC; Jordan, Paul CW5 USARMY DHA VETERINARY \(USA\); nwn2@cdc.gov](#)
Subject: RE: USDA ESF #11 Interagency Food Supply Chain Team
Date: Tuesday, June 23, 2020 9:28:44 AM
Attachments: [CDAP Access Instructions 200605.pdf](#)
[DAWG MAX Access Instructions 200605.pdf](#)

IFSCT Members,

Per this morning's call, attached are two sets of instructions related to the demo provided:

- **COVID-19 Data and Assessment Portal (CDAP) Access Instructions** –This provides instructions for accessing the Data and Assessment Working Group's (DAWG) CDAP, which is the tool demo'ed this morning.
 - The first step in the process is to request access to the CDAP tool by emailing DAWG@anl.gov. In your request, you must provide your name and organizations. Access is free to all federal D/As.
- **DAWG MAX Access Instructions** – This provides instructions on how to access the DAWG's website on MAX.gov. MAX.gov is a government-wide suite of advanced collaboration, information sharing and data collection tools used to facilitate cross-government collaboration and knowledge management.

If anyone would like to follow up with SBA on their out brief this morning, please contact **Lynda Lowe** at SBA's Office of Disaster Assistance by emailing her at lynda.lowe@sba.gov.

Please let us know if there are any addition topics or questions that should be addressed in next week's meeting.

Thank you for participating in this morning's call, and we look forward to hearing from you next week.

Best,
Todd

From: Mccoy, Todd - OHS, Washington, DC
Sent: Tuesday, June 23, 2020 8:01 AM
To: IFSCT
Subject: RE: USDA ESF #11 Interagency Food Supply Chain Team

IFSCT Members,

Good morning!

Please follow this link below to view the demo of the DAWG Analytics Portal.

WebEx: (b) (6)

Thanks,
Todd

-----Original Appointment-----

From: Mccoy, Todd - OHS, Washington, DC
Sent: Tuesday, June 16, 2020 10:16 AM
To: Interagency Food Supply Chain
Subject: USDA ESF #11 Interagency Food Supply Chain Team
When: Tuesday, June 23, 2020 8:00 AM-8:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: (b) (6)

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Location: (b) (6)

Agenda:

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 - ESF # 6 – *Sarah Egan (FEMA)*
 - ESF # 10 – Stephanie Wenning (EPA)
 - ESF # 14 – Dana Ahrens or Bob Rutledge (DHS-CISA)
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Email Pulver to Glass (Aug. 11, 2021)

Record No. OSHA2052-56

(Also encompassing duplicates
OSHA2062-65; OSHA2072-74)

From: Williams, Dionne - OSHA
Sent: Tuesday, May 26, 2020 12:14 PM
To: McGowan, Larry - OSHA
Cc: Holmes, Mikki - OSHA (b) (6); Kim, Jennifer M. - OSHA; Rundman, Sven - OSHA (b) (6)
Subject: FW: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency
Attachments: 14147_OASP_Clearance Document (1-1)_05_07_20 05_06 PM.doc; 14147_DTSEM Response to OPA_ASP Comments_05_21_2020_4pm.doc; CTS 14147_DTSEM Response to OPA_ASP Comments_05_21_2020_4pm OHE.docx; CTS 14147 Rep Cleaver et al - Meat Processing Plants and COIVD (5-1-2020).pdf

My suggested changes and comments are in the OHE attachment.

Dionne Williams, DrPH, MPH
Deputy Director
OSHA - Directorate of Enforcement Programs
200 Constitution Ave, NW
Washington, DC 20210
202-693-2140

From: McGowan, Larry - OSHA <McGowan.Larry@dol.gov>
Sent: Tuesday, May 26, 2020 11:21 AM
To: Williams, Dionne - OSHA <Williams.Dionne@dol.gov>; Holmes, Mikki - OSHA <Holmes.Mikki@dol.gov>
Cc: (b) (6); Kim, Jennifer M. - OSHA <Kim.Jennifer.M@dol.gov>; Rundman, Sven - OSHA <rundman.sven@dol.gov>
Subject: FW: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

Dionne, Mikki,

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Larry

From: (b) (6)
Sent: Thursday, May 21, 2020 7:20 PM
To: McGowan, Larry - OSHA <McGowan.Larry@dol.gov>

Subject: FW: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

Hi Larry,

(b) (6), (b) (5)

From: Wheeler, Young - OSHA <Wheeler.Young@dol.gov>

Sent: Thursday, May 21, 2020 3:01 PM

To: McGowan, Larry - OSHA <McGowan.Larry@dol.gov>; (b) (6) Rundman, Sven - OSHA <rundman.sven@dol.gov>

Cc: (b) (6) Holmes, Mikki - OSHA <Holmes.Mikki@dol.gov>; Williams, Dionne - OSHA <Williams.Dionne@dol.gov>; Jillings, Lee Anne - OSHA <Jillings.LeeAnne@dol.gov>; Robinson, Kevin - OSHA <Robinson.Kevin@dol.gov>; (b) (6) ; Lawver, Christopher J. - OSHA <Lawver.Christopher.J@dol.gov>

Subject: RE: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

Good afternoon Larry, (b) (6), and Sven,

(b) (5)

Thank you,
Young

From: McGowan, Larry - OSHA <McGowan.Larry@dol.gov>

Sent: Friday, May 8, 2020 1:12 PM

To: (b) (6) Rundman, Sven - OSHA <rundman.sven@dol.gov>; Wheeler, Young - OSHA <Wheeler.Young@dol.gov>

Cc: (b) (6) Holmes, Mikki - OSHA <Holmes.Mikki@dol.gov>; Williams, Dionne - OSHA <Williams.Dionne@dol.gov>

Subject: FW: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

(b) (6), (b) (5)

(b) (5)

Larry

From: (b) (6)
Sent: Friday, May 8, 2020 12:30 AM
To: Rundman, Sven - OSHA <rundman.sven@dol.gov>
Cc: McGowan, Larry - OSHA <McGowan.Larry@dol.gov>
Subject: RE: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

Let me know what you think.

From: Rundman, Sven - OSHA <rundman.sven@dol.gov>
Sent: Monday, May 4, 2020 10:27 AM
To: (b) (6)
Cc: McGowan, Larry - OSHA <McGowan.Larry@dol.gov>
Subject: FW: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

(b) (6), (b) (5)

Sven

From: (b) (6)
Sent: Monday, May 04, 2020 11:17 AM
To: Rundman, Sven - OSHA <rundman.sven@dol.gov>; McGowan, Larry - OSHA <McGowan.Larry@dol.gov>
Cc: Carter, Renee - OSHA <Carter.M.Renee@DOL.GOV>
Subject: FW: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

OHE,

Please respond to questions 1, 5, and 8.

Thank you,

(b) (6)

From: Wanko, Jeffrey - OSHA <Wanko.Jeffrey@dol.gov>
Sent: Monday, May 4, 2020 11:13 AM

To: (b) (6) Kapust, Patrick - OSHA <Kapust.Patrick@dol.gov>
Subject: RE: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

(b) (5)

Thanks
jeff

From: (b) (6)
Sent: Monday, May 4, 2020 9:59 AM
To: Kapust, Patrick - OSHA <Kapust.Patrick@dol.gov>; Wanko, Jeffrey - OSHA <Wanko.Jeffrey@dol.gov>
Subject: FW: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

Patrick/Jeff

Attached is a Congressional correspondence assigned to DEP for response.

(b) (6)

From: admin@cmp.dol.gov <admin@cmp.dol.gov>
Sent: Monday, May 4, 2020 8:17 AM
To: (b) (6) Carter, Renee - OSHA <Carter.M.Renee@DOL.GOV>; (b) (6)
Subject: [Intra Agency Assignment Notification] CTS #14147: OSHA: Cleaver, Emanuel: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency



The following Correspondence has an assignment for Directorate of Enforcement Programs (DEP). It will be displayed in the **My Work** tab.

Intra Agency Assignment Notification

CTS # 14147: Concern About Executive Order For Meat Packing Plants Under Defence Production Act During COVID-19 Emergency

Correspondence Type: Congressional Non-Casework

Action Agency: OSHA

Expected Date:

ExecSec Clearance Required: Yes

Comment:

DEP, Linked below is an incoming cabinet correspondence assigned to your directorate for response. Signature Level - Principal Deputy Assistant Secretary. Please coordinate with any

appropriate regions and/or directorates. Please upload Draft Word version of response for OAS and departmental clearance. CCU will let you know when the response is approved for signing and mailing. Also, please provide a salutation list with the draft response. Thank you. OSHA CCU

Please review this Correspondence and draft a response.

The Correspondence will appear on the **Search** tab or you can access it directly through the hyperlink/url below:

[Follow this link](#)

Thank you,
DOL CMP Team
dolcmpteam@dol.gov

*****This is a system generated message. Please do not reply to this email.*****

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

Email Pulver to Glass (Aug. 11, 2021)

Record No. OSHA2546

From: Sweatt, Loren E. - OSHA
Sent: Friday, September 11, 2020 6:32 PM
To: Sweeney, Megan P - OPA; Pearce, Krisann - OSHA
Subject: Fwd: JBS delivered confirmation
Attachments: JBSSwiftCit2.pdf; ATT00001.htm

Begin forwarded message:

From: "Hauter, Nancy - OSHA" <Hauter.Nancy@dol.gov>
Date: September 11, 2020 at 6:23:25 PM EDT
To: "Edens, Mandy - OSHA" <Edens.Mandy@dol.gov>, "Sweatt, Loren E. - OSHA" <Sweatt.Loren.E@dol.gov>, "Kapust, Patrick - OSHA" <Kapust.Patrick@dol.gov>
Cc: "Zentner, Todd - OSHA" <Zentner.Todd@dol.gov>, "Rainwater, John - SOL" <Rainwater.John@DOL.GOV>, "Williams2, Timothy - SOL" <Williams2.Timothy@dol.gov>, "Baird, Edmund - SOL" <Baird.Edmund@dol.gov>
Subject: JBS delivered confirmation

All -

I have confirmation that the citations for JBS, attached, have been delivered. Please share this with anyone who would need to know, that I may have not included on this email. Will the press release go out today?

Nancy

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

Email Pulver to Glass (Aug. 11, 2021)

Record No. OSHA2568-69

(Also encompassing duplicate
OSHA2522-24)

From: Sweeney, Megan P - OPA
Sent: Tuesday, April 14, 2020 7:01 PM
To: Bob Bozzuto (Bozzuto.Robert.F@dol.gov)
Subject: FW: Smithfield Foods - Major employer in Sioux Falls - April 13, 2020 - Update
Attachments: 1566977 - Smithfield initial.pdf

FYI

From: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Sent: Tuesday, April 14, 2020 6:33 PM
To: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>
Subject: FW: Smithfield Foods - Major employer in Sioux Falls - April 13, 2020 - Update

The initial document is OSHA's inquiry. The response letter (b) (5) and complaint also attached.

From: Lucero, Rita - OSHA <Lucero.Rita@dol.gov>
Sent: Tuesday, April 14, 2020 6:26 PM
To: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Cc: Edens, Mandy - OSHA <Edens.Mandy@dol.gov>
Subject: RE: Smithfield Foods - Major employer in Sioux Falls - April 13, 2020 - Update

As requested

Attachment – 1566977 – Smithfield initial letter (b) (7)(A)
Attachment OSHA Complaint 1566977 Response Letter – Smithfield's initial Response
Attachment FW:CLI 1566977 – Second response to our request (b) (7)(A)

Media Inquiry:

Today we received a media inquiry from the BBC that was referred to Chicago's OPA Scott Allen. Scott spoke to the reporter who was inquiring about Smithfield's OSHA history. The reporter also wanted to know whether we are doing an inspection, but he has not yet answered her. We told him that we would let him know if we were going to open an inspection there.

As of this time, we have had no reports of hospitalizations at Smithfield. (b) (5)

(b) (5)

If you need anything else tonight, please call my cell.

Rita M. Lucero

Acting Regional Administrator

OSHA, Region VIII
1244 Speer Blvd., Suite 551
Denver, CO 80204
Telephone: 720/264-6565
Email: lucero.rita@dol.gov

From: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Sent: Tuesday, April 14, 2020 4:02 PM
To: Lucero, Rita - OSHA <Lucero.Rita@dol.gov>
Cc: Edens, Mandy - OSHA <Edens.Mandy@dol.gov>
Subject: RE: Smithfield Foods - Major employer in Sioux Falls - April 13, 2020 - Update

Can you send me the inquiry OSHA sent, please?

From: Lucero, Rita - OSHA <Lucero.Rita@dol.gov>
Sent: Monday, April 13, 2020 11:48 AM
To: Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Cc: Edens, Mandy - OSHA <Edens.Mandy@dol.gov>
Subject: Smithfield Foods - Major employer in Sioux Falls - April 13, 2020 - Update

Hello – Update on Smithfield

Throughout the weekend the number of Covid-19 cases continued to rise and one recent news article says that 238 of Minnehaha's 438 cases involve "individuals who work at Smithfield Foods". The initial plan was that Smithfield close for three days but, the cases continued to climb throughout the weekend, initially prompting a 14-day shutdown – urged by the Governor Noem and Mayor TenHaken. The plant took an additional step to close the facility until further notice.

Several other news outlets have higher numbers for Smithfield Food employees infected with Covid-19. The US News says nearly 300 employees are infected.

Here is the news release that Smithfield issued:

<https://www.smithfieldfoods.com/press-room/company-news/smithfield-foods-to-close-sioux-falls-sd-plant-indefinitely-amid-covid-19>

Here is the most recent story in the Argus Leader:

<https://www.argusleader.com/story/news/2020/04/12/smithfield-foods-close-sioux-falls-plant-indefinetly-amid-covid-19-outbreak/2978385001/>

State-wide we currently have 730 cases.

Here is the link to the US News Story:

<https://www.usnews.com/news/national-news/articles/2020-04-13/smithfield-foods-closes-south-dakota-processing-plant-after-employees-test-positive-for-coronavirus>

(b) (5)



I will send an update on JBS later today.

I will update as I learn additional information.

Rita M. Lucero

Acting Regional Administrator

OSHA, Region VIII

1244 Speer Blvd., Suite 551

Denver, CO 80204

Telephone: 720/264-6565

Email: lucero.rita@dol.gov

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

Email Pulver to Glass (Aug. 11, 2021)

Record No. OSHA2575-76/2576-79

From: Nicholson, Mattie L - OPA
Sent: Friday, December 18, 2020 3:44 PM
To: Bozzuto, Robert F - OPA
Cc: Sweeney, Megan P - OPA; Sidney, Sabin R - OPA
Subject: Press Inquiry 17
Attachments: Post Hearing brief exhibit A.pdf; Post Hearing brief (004).pdf

Bob – For your approval

OUTLET: USA Today
REPORTER: Kyle Bagenstose

QUESTIONS

1. Our statistics (#s 1, 2, and 3 from **Findings**) suggest a significant gap between the number of meatpacking plants where workers have died from COVID-19 and the number of plants where inspections have been conducted. Can the agency explain those discrepancies?
2. Interviewees have criticized the agency's use of "remote inspections" for COVID-19 matters at meatpacking plants. They say that video conferencing, fax, and email are inadequate to ensure safe conditions. Any comment?
3. Interviewees have noted that under existing OSHA guidance, healthcare facilities have been deemed priority for in-person OSHA inspections. Interviewees have offered that this is inadequate for meatpacking plants, given that they are subject to the Defense Production Act via executive order and are known to be superspreader facilities in line with nursing homes and prisons. Any comment? Early on, the most exposure would be those treating COVID patients. As we moved forward, we
4. Interviewees have criticized OSHA's in-person inspections of meatpacking plants, including giving advance notice to employers, being too brief, and relying too much on employers' guidance through the plants. Any comment?
5. In at least two plants, OSHA inspectors gave companies advance notice of their on-site inspections. In both instances, workers and their advocates say that prompted changes that didn't last beyond the OSHA inspection. In a July hearing in federal court, a Pennsylvania inspector testified that she gave Maid-Rite Specialty Foods advance notice of an inspection for her own protection from the coronavirus. What has OSHA advised inspectors about alerting employers to inspections in advance during the pandemic?
6. Our calculations show that the agency has issued COVID-19 related violations to only three employers, totaling about \$54,000: a JBS plant in Greeley, Colorado; Smithfield Foods in Sioux Falls, South Dakota; and Quality Sausage in Dallas, Texas. Is this accurate, and if so, why have so few workplaces been cited when so many workers have fallen ill or died?
7. What is the status of the inspection of the Noah's Ark facility in Hastings, NE? (Please see our description in the **Facilities** portion.) Can the agency comment on the allegations that the plant continues to be an unsafe work place?
8. Through interviews and document reviews, we have come to understand that guidances released by OSHA in April stipulate that employers are able to determine whether or not an employee's COVID-19 diagnosis is

workplace related, and thus reportable to OSHA. The guidances create a “more likely than not” test for employers to make that determination. Is this accurate?

9. Interviewees have been critical of this approach, saying it places too much control in the hands of companies, bucks usual OSHA policy to have employers report illnesses and injuries and let area offices decide on workplace connectedness, and has ultimately led to an underreporting of legitimate workplace-connected COVID-19 cases. Any comment?
10. Through interviews and document reviews, it is our understanding that some unions have observed discrepancies between the number of employees sick with or dead from COVID-19 and the incidents recorded in employers’ 300 logs. Any comment? **I think we’d need specific instances to comment.**
11. It is our understanding that in a FAQ guidance released by OSHA in September, the agency informed employers they only had to report COVID-19 hospitalizations if they occurred within 24 hours of a workplace exposure. Deaths would only be reportable if they occurred within 30 days of a known exposure. Given that COVID-19’s incubation period typically begins several days after exposure, and that some individuals suffer a prolonged COVID-19 illness that can last months before death, this would appear to allow for a significant undercounting of employee hospitalizations and deaths. Is our reading of the FAQ accurate, and if so, any comment?
12. Our understanding is that in September, U.S. senators signed a letter to DOL Secretary Eugene Scalia (The “Sherrod Brown” letter) inquiring about the inspections of meat plants. The senators have apparently received no response. Is this accurate and any comment?
13. Interviewees have been critical about OSHA’s release of meatpacking safety guidelines in the spring, saying they are largely voluntarily and include language such as “when possible” and “if feasible.” They opined that OSHA should have crafted mandatory emergency standards instead to ensure bare minimum safety conditions were met. Any comment?
14. Interviewees were critical of OSHA’s reliance on the general duty clause to ensure worker protections, saying citations are difficult to defend in court and allow for unsafe conditions to continue while being litigated. Any comment?
15. Please comment on the allegations described at Seaboard Foods in Guymon, OK, as described in the **Facilities** section.
16. Please review the description of the Smithfield facility in Crete, NE in the **Facilities** section. In addition to any comment, how many employee COVID-19 deaths have been reported to OSHA by the facility? How many are being investigated? What are the status of those investigations?
17. Overall, interviews say the above allegations all culminate in an abdication of OSHA’s responsibility to protect meatpacking workers from COVID-19. What is the agency’s response?

FINDINGS

- I. According to our review of publicly available records, 45,000 workers in the meatpacking industry (311611, 311612, 311613, 311615) have fallen ill with COVID-19. 231 have died in 55 plants in 25 states. **(b) (5)**
- II. Of those 55 plants, 31 (56%) have received an OSHA inspection of any kind since 3/1/2020. The means 24 (44%), have not.
- III. Since 3/1/2020, federal and state OSHA departments have opened only ~75 FAT/CAT investigations of the industry.

FACILITIES

- A. **Cargill Fort Morgan, CO:** Public records indicate four employees have died from COVID-19, but no inspection.
- B. **Maid-Rite in Duncannon, PA:** From interviews and document reviews, we gained an understanding that at this facility in late May, conditions were such that workers were crowded on work lines and in common areas. Shortly thereafter, workers filed a complaint with OSHA alleging “imminent danger” for COVID-19. Our understanding was initially, OSHA submitted only a letter to Maid-Rite. After receiving an unsatisfactory response, several weeks later, OSHA opened and performed an inspection. Prior to the conduction of the inspection, we understand OSHA provided Maid-Rite a one-day advanced notice. Workers said that allowed the plant to correct unsafe conditions, which reverted after the OSHA visit. In July, the workers filed a lawsuit against OSHA, which is ongoing. In December, OSHA issued a letter effectively stating it would not be citing the plant. Attorneys for the employees allege this is evidence that OSHA is not interested in investigating or correcting conditions of imminent danger in meatpacking plants.
- C. **Noah’s Ark in Hastings, NE:** Our understanding is that workers felt conditions were unsafe in the plant. Our understanding is OSHA inspected the plant in September 2020, but provided a one-day advanced notice to the employer. Employees said that allowed time for lapses in crowding, the provision of hand sanitizer, and deteriorating plastic barriers to be corrected. It was alleged the OSHA inspector stayed for only a brief time and was largely led by the company’s representatives. ACLU in November filed a lawsuit on behalf of the workers saying conditions have not improved. It is our understanding OSHA has yet to close its inspection of the facility.
- D. **Seaboard Foods in Guymon, OK:** Our understanding is that four workers have died from COVID-19, but that OSHA has not opened any subsequent inspections. Our understanding is OSHA has conducted one inspection of the plant since 3/1/2020, but it was to examine faulty trailers. Interviewees have told us that due to the lack of oversight, the plant has relaxed safety conditions, now allowing for more crowding of the cafeteria.
- E. **Smithfield in Crete, NE:** It is our understanding that 139 workers were infected with COVID-19 by early May, when the state and company stopped publicly releasing numbers. It is our understanding that by late May, the daughter of a worker filed an OSHA complaint claiming unsafe conditions continued in the plant, including inadequate mask protection, the moving of plastic barriers, and a lack of exposure notification for employees. It is our understanding the person who filed the complaint received a call from an OSHA employee, who informed the person that there would be no need to inspect the plant since it was taking adequate precautions. It is our understanding at least three employees have died at the plant and/or a separate Smithfield facility across the street, and potentially more. Our understanding is that OSHA has opened three FAT/CAT inspections at the plant, two in June and one in December. We understand at least one of the inspections resulting in an on-site visit. Two of the inspections remain open.
- F. **Tyson Foods Camilla, GA:** Public records indicate four employees have died from COVID-19. No inspection.

PROPOSED RESPONSE:

(b) (5)

(b) (5)

(b) (5)

(b) (5)

To: Bozzuto, Robert F - OPA[Bozzuto.Robert.F@DOL.gov]
Cc: Sweeney, Megan P - OPA[Sweeney.Megan.P@DOL.gov]; Sidney, Sabin R - OPA[Sidney.Sabin.R@dol.gov]
From: Nicholson, Mattie L - OPA[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E57E90A07DD74C1880260DA706D772D8-NICHOLSON,]
Sent: Fri 12/18/2020 8:47:53 PM (UTC)
Subject: RE: Press Inquiry 17

HOLD

--

Mattie Nicholson

From: Nicholson, Mattie L - OPA
Sent: Friday, December 18, 2020 3:44 PM
To: Bozzuto, Robert F - OPA <Bozzuto.Robert.F@dol.gov>
Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@dol.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Subject: Press Inquiry 17

Bob – For your approval

OUTLET: USA Today
REPORTER: Kyle Bagenstose

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PROPOSED RESPONSE:

(b) (5)

(b) (5)

(b) (5)

(b) (5)

**PREVIOUSLY
WITHHELD
RECORDS**

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 5

From: [Newsome, Shawna - OSEC, Washington, DC](#)
To: [Sweatt, Loren E. - OSHA](#)
Subject: Draft language
Date: Tuesday, May 5, 2020 8:17:05 AM

DRAFT/DELIBERATIVE

Loren,

We may be issuing orders as soon as this morning. We want to include language on attestation.
Would this work for process?

(b) (5)
[Redacted]
[Redacted]
[Redacted]
[Redacted].

Shawna Newsome

Chief of Staff

Office of Food Safety, USDA
1400 Independence Ave., SW
Washington, D.C. 20250

Cell: (b) (6)

Email: shawna.newsome@usda.gov

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Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 6

Controlled Unclassified Information

Interagency Food Supply Chain Team

Areas of Interest Survey - Preliminary Results

July 14, 2020



Controlled Unclassified Information

Handling Instructions

- ▶ All individuals handling this information are required to protect it from unauthorized disclosure
- ▶ Handling, storage, reproduction, and disposition of the attached document(s) must be in accordance with 32 CFR Part 2002 and applicable agency policy
- ▶ Access to and dissemination of Controlled Unclassified Information (CUI) shall be allowed as necessary and permissible to any individual(s), organization(s), or grouping(s) of users, provided such access or dissemination is consistent with or in furtherance of a Lawful Government Purpose and in a manner consistent with applicable law, regulations, and Government-wide policies

Controlled Unclassified Information

Agenda

- ▶ Prioritization results for the IFSCCT's initial areas of interest
- ▶ New areas of interest (raw data)
- ▶ Discussion
- ▶ Next steps/action items

Controlled Unclassified Information

Controlled Unclassified Information

Prioritization Results for the IFSCCT's Initial Areas of Interest

(b) (5)

Controlled Unclassified Information

New Areas of Interest - Raw Data

(b) (5)

Controlled Unclassified Information

Controlled Unclassified Information

New Areas of Interest - Raw Data (Cont.)

(b) (5)

Controlled Unclassified Information

Controlled Unclassified Information

New Areas of Interest - Raw Data (Cont.)

(b) (5)

Controlled Unclassified Information

Controlled Unclassified Information

New Areas of Interest - Raw Data (Cont.)



Controlled Unclassified Information

Discussion

Controlled Unclassified Information

Controlled Unclassified Information

Controlled Unclassified Information

Next Steps/Action Items

Controlled Unclassified Information

Controlled Unclassified Information

Contact Information

Todd McCoy

Emergency Management and Homeland Security Branch Chief (acting)

Animal and Plant Health Inspection Service | USDA

todd.mccoy@usda.gov | (202) 579-8894

Controlled Unclassified Information

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 7

From: [Houvener, Gerald - APHIS](#)
To: [Kapust, Patrick - OSHA](#)
Subject: Non-NIOSH approved respirators and CoVid-19
Date: Friday, May 22, 2020 8:21:02 AM

Patrick ,

Would OSHA consider the mandatory use of face masks, surgical masks, and paper masks for the workplace to protect workers from CoVid-19 that are not NIOSH approved a violation of 29 CFR 1910.134(d)(i) and (d)(ii)?

Thank you,
Gerry

Gerald Houvener CIH CSP MPH
APHIS Industrial Hygiene Program Manager
4700 River Rd. Unit 124
Riverdale, MD 20737
o. 301-436-3150
c. (b) (6)
fax 301-734-7828

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Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 9

From: [Perry, Andrew - OBPA, Washington, DC](#)
To: [Swirsky, Stephanie - ASP](#); [Hirsch, Quinn N. EOP/OMB](#); [Beal, Mary Dee - OSEC, Washington, DC](#); [Brown, Christopher K. - OSHA](#); [McGowan, Robert \(Kyle\) \(CDC/OD/OCS\)](#); [Horska, Katerina \(HHS/IOS\)](#); [Hawkins, Jamar \(HHS/OS\)](#); [Edens, Mandy - OSHA](#); [Sweatt, Loren E. - OSHA](#); [Delaney, Lisa \(CDC/NIOSH/OD\)](#); [Houry, Debra E. \(CDC/DDNID/NCIPC/OD\)](#); [Clark, Cynthia K. \(CDC/OD/OCS\)](#)
Cc: [Tatham, Steph J. EOP/OMB](#); [Aguilar, Brenda L. EOP/OMB](#); [Thallam, Satya P. EOP/OMB](#); [Mancini, Dominic J. EOP/OMB](#); [Dawkins, Laura M - ASP](#); [ONEILL, Stephen - OBPA, Washington, DC](#); [Zito, Mark - OBPA, Washington, DC](#); [York, Kent - OBPA, Washington, DC](#); [Newsome, Shawna - OSEC, Washington, DC](#); [Adcock, Rebeckah - OSEC, Washington, DC](#)
Subject: RE: (DOL/CDC/USDA) Meat Packing Guidances
Date: Monday, April 20, 2020 2:48:30 PM

USDA, too.

Thanks

From: Swirsky, Stephanie - ASP <Swirsky.Stephanie@dol.gov>
Sent: Monday, April 20, 2020 2:30 PM
To: Hirsch, Quinn N. EOP/OMB <Quinn.N.Hirsch@omb.eop.gov>; Beal, Mary Dee - OSEC, Washington, DC <MaryDee.Beal@usda.gov>; Perry, Andrew - OBPA, Washington, DC <andrew.perry@usda.gov>; Brown, Christopher K. - OSHA <Brown.Christopher.K@dol.gov>; McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov>; Horska, Katerina (HHS/IOS) <Katerina.Horska@hhs.gov>; Hawkins, Jamar (HHS/OS) <jamar.hawkins@hhs.gov>; Edens, Mandy - OSHA <Edens.Mandy@dol.gov>; Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>; Delaney, Lisa (CDC/NIOSH/OD) <lkd2@cdc.gov>; Houry, Debra E. (CDC/DDNID/NCIPC/OD) <vjz7@cdc.gov>; Clark, Cynthia K. (CDC/OD/OCS) <cfc8@cdc.gov>
Cc: Tatham, Steph J. EOP/OMB <Stephanie_J_Tatham@omb.eop.gov>; Aguilar, Brenda L. EOP/OMB <Brenda_Aguilar@omb.eop.gov>; Thallam, Satya P. EOP/OMB <Satya.P.Thallam@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic_J_Mancini@omb.eop.gov>; Dawkins, Laura M - ASP <Dawkins.Laura.M@dol.gov>; ONEILL, Stephen - OBPA, Washington, DC <Stephen.ONEILL@usda.gov>; Zito, Mark - OBPA, Washington, DC <mark.zito@usda.gov>; York, Kent - OBPA, Washington, DC <kent.york@usda.gov>; Newsome, Shawna - OSEC, Washington, DC <Shawna.Newsome@usda.gov>; Adcock, Rebeckah - OSEC, Washington, DC <Rebeckah.Adcock@usda.gov>
Subject: RE: (DOL/CDC/USDA) Meat Packing Guidances

Labor can do 4:30

Stephanie Swirsky
Deputy Assistant Secretary for Policy
U.S. Department of Labor
202/693-^{(b) (6)} (direct)
^{(b) (6)} (mobile)
Swirsky.stephanie@dol.gov

From: Hirsch, Quinn N. EOP/OMB <Quinn.N.Hirsch@omb.eop.gov>
Sent: Monday, April 20, 2020 2:04 PM
To: Beal, Mary Dee - OSEC, Washington, DC <MaryDee.Beal@usda.gov>; Perry, Andrew - OBPA, Washington, DC <andrew.perry@usda.gov>; Brown, Christopher K. - OSHA <Brown.Christopher.K@dol.gov>; McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov>;

Swirsky, Stephanie - ASP <Swirsky.Stephanie@dol.gov>; Horska, Katerina (HHS/IOS) <Katerina.Horska@hhs.gov>; Hawkins, Jamar (HHS/OS) <jamar.hawkins@hhs.gov>; Edens, Mandy - OSHA <Edens.Mandy@dol.gov>; Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>; Delaney, Lisa (CDC/NIOSH/OD) <lkd2@cdc.gov>; Houry, Debra E. (CDC/DDNID/NCIPC/OD) <vjz7@cdc.gov>; Clark, Cynthia K. (CDC/OD/OCS) <cfc8@cdc.gov>

Cc: Tatham, Steph J. EOP/OMB <Stephanie_J_Tatham@omb.eop.gov>; Aguilar, Brenda L. EOP/OMB <Brenda_Aguilar@omb.eop.gov>; Thallam, Satya P. EOP/OMB <Satya.P.Thallam@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic_J_Mancini@omb.eop.gov>; Dawkins, Laura M - ASP <Dawkins.Laura.M@dol.gov>; O'Neill, Stephen - OBPA, Washington, DC <Stephen.ONeill@usda.gov>; Zito, Mark - OBPA, Washington, DC <mark.zito@usda.gov>; York, Kent - OBPA, Washington, DC <kent.york@usda.gov>; Newsome, Shawna - OSEC, Washington, DC <Shawna.Newsome@usda.gov>; Adcock, Rebeckah - OSEC, Washington, DC <Rebeckah.Adcock@usda.gov>

Subject: RE: (DOL/CDC/USDA) Meat Packing Guidances

All,

We think it would be productive to have a call. Please advise if your key participants can do a 4:30 interagency call. If so, OIRA will send an invite.

Thanks,

Q

From: Beal, Mary Dee - OSEC, Washington, DC <MaryDee.Beal@usda.gov>

Sent: Monday, April 20, 2020 1:45 PM

To: Perry, Andrew - OBPA, Washington, DC <andrew.perry@usda.gov>; Brown, Christopher K. - OSHA <Brown.Christopher.K@dol.gov>; McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov>; Swirsky, Stephanie - ASP <Swirsky.Stephanie@dol.gov>; Hirsch, Quinn N. EOP/OMB <Quinn.N.Hirsch@omb.eop.gov>; Horska, Katerina (HHS/IOS) <Katerina.Horska@hhs.gov>; Hawkins, Jamar (HHS/OS) <jamar.hawkins@hhs.gov>; Edens, Mandy - OSHA <Edens.Mandy@dol.gov>; Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>; Delaney, Lisa (CDC/NIOSH/OD) <lkd2@cdc.gov>; Houry, Debra E. (CDC/DDNID/NCIPC/OD) <vjz7@cdc.gov>; Clark, Cynthia K. (CDC/OD/OCS) <cfc8@cdc.gov>

Cc: Tatham, Steph J. EOP/OMB <Stephanie_J_Tatham@omb.eop.gov>; Aguilar, Brenda L. EOP/OMB <Brenda_Aguilar@omb.eop.gov>; Thallam, Satya P. EOP/OMB <Satya.P.Thallam@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic_J_Mancini@omb.eop.gov>; Dawkins, Laura M - ASP <Dawkins.Laura.M@dol.gov>; O'Neill, Stephen - OBPA, Washington, DC <Stephen.ONeill@usda.gov>; Zito, Mark - OBPA, Washington, DC <mark.zito@usda.gov>; York, Kent - OBPA, Washington, DC <kent.york@usda.gov>; Newsome, Shawna - OSEC, Washington, DC <Shawna.Newsome@usda.gov>; Adcock, Rebeckah - OSEC, Washington, DC <Rebeckah.Adcock@usda.gov>

Subject: RE: (DOL/CDC/USDA) Meat Packing Guidances

Thanks Andrew. Here are our edits to OSHA doc as well.

(b) (5)

We are happy to engage in further discussion with folks copied here and our team.

From: Perry, Andrew - OBPA, Washington, DC <andrew.perry@usda.gov>

Sent: Monday, April 20, 2020 1:41 PM

To: Brown, Christopher K. - OSHA <Brown.Christopher.K@dol.gov>; McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov>; Swirsky, Stephanie - ASP <Swirsky.Stephanie@dol.gov>; Hirsch, Quinn N. EOP/OMB <Quinn.N.Hirsch@omb.eop.gov>; Horska, Katerina (HHS/IOS) <Katerina.Horska@hhs.gov>; Hawkins, Jamar (HHS/OS) <jamar.hawkins@hhs.gov>; Edens, Mandy - OSHA <Edens.Mandy@dol.gov>; Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>; Delaney, Lisa (CDC/NIOSH/OD) <lkd2@cdc.gov>; Houry, Debra E. (CDC/DDNID/NCIPC/OD) <vjz7@cdc.gov>; Clark, Cynthia K. (CDC/OD/OCS) <cfc8@cdc.gov>

Cc: Tatham, Steph J. EOP/OMB <Stephanie.J.Tatham@omb.eop.gov>; Aguilar, Brenda L. EOP/OMB <Brenda.Aguilar@omb.eop.gov>; Thallam, Satya P. EOP/OMB <Satya.P.Thallam@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic.J.Mancini@omb.eop.gov>; Dawkins, Laura M - ASP <Dawkins.Laura.M@dol.gov>; O'Neill, Stephen - OBPA, Washington, DC <Stephen.ONeill@usda.gov>; Zito, Mark - OBPA, Washington, DC <mark.zito@usda.gov>; York, Kent - OBPA, Washington, DC <kent.york@usda.gov>; Newsome, Shawna - OSEC, Washington, DC <Shawna.Newsome@usda.gov>; Beal, Mary Dee - OSEC, Washington, DC <MaryDee.Beal@usda.gov>; Adcock, Rebeckah - OSEC, Washington, DC <Rebeckah.Adcock@usda.gov>

Subject: RE: (DOL/CDC/USDA) Meat Packing Guidances

Good afternoon everyone,

Adding USDA's team and forwarding the attached comments for DOL's consideration.

Thanks,
Andrew

From: Brown, Christopher K. - OSHA <Brown.Christopher.K@dol.gov>

Sent: Monday, April 20, 2020 1:20 PM

To: McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov>; Swirsky, Stephanie - ASP <Swirsky.Stephanie@dol.gov>; Hirsch, Quinn N. EOP/OMB <Quinn.N.Hirsch@omb.eop.gov>; Horska, Katerina (HHS/IOS) <Katerina.Horska@hhs.gov>; Hawkins, Jamar (HHS/OS) <jamar.hawkins@hhs.gov>; Perry, Andrew - OBPA, Washington, DC <andrew.perry@usda.gov>; Edens, Mandy - OSHA <Edens.Mandy@dol.gov>; Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>; Delaney, Lisa (CDC/NIOSH/OD) <lkd2@cdc.gov>; Houry, Debra E. (CDC/DDNID/NCIPC/OD) <vjz7@cdc.gov>; Clark, Cynthia K. (CDC/OD/OCS) <cfc8@cdc.gov>

Cc: Tatham, Steph J. EOP/OMB <Stephanie.J.Tatham@omb.eop.gov>; Aguilar, Brenda L. EOP/OMB <Brenda.Aguilar@omb.eop.gov>; Thallam, Satya P. EOP/OMB <Satya.P.Thallam@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic.J.Mancini@omb.eop.gov>; Dawkins, Laura M - ASP <Dawkins.Laura.M@dol.gov>

Subject: RE: (DOL/CDC/USDA) Meat Packing Guidances

(b) (5)
[Redacted]
[Redacted]
[Redacted]
[Redacted]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

If OMB has specific concerns, it would be helpful for us to hear those so that we can identify areas where we need to harmonize.

Others, feel free to weigh in if there seem to be sticking points from your perspectives. We would like to keep these document moving quickly, because of urgent need in the field.

From: McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov>
Sent: Monday, April 20, 2020 1:12 PM
To: Swirsky, Stephanie - ASP <Swirsky.Stephanie@dol.gov>; Hirsch, Quinn N. EOP/OMB <Quinn.N.Hirsch@omb.eop.gov>; Horska, Katerina (HHS/IOS) <Katerina.Horska@hhs.gov>; Hawkins, Jamar (HHS/OS) <jamar.hawkins@hhs.gov>; Perry, Andrew - OBPA, Washington, DC <andrew.perry@usda.gov>; Edens, Mandy - OSHA <Edens.Mandy@dol.gov>; Brown, Christopher K. - OSHA <Brown.Christopher.K@dol.gov>; Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>; Delaney, Lisa (CDC/NIOSH/OD) <lkd2@cdc.gov>; Houry, Debra E. (CDC/DDNID/NCIPC/OD) <vjz7@cdc.gov>; Clark, Cynthia K. (CDC/OD/OCS) <cfc8@cdc.gov>
Cc: Tatham, Steph J. EOP/OMB <Stephanie_J_Tatham@omb.eop.gov>; Aguilar, Brenda L. EOP/OMB <Brenda_Aguilar@omb.eop.gov>; Thallam, Satya P. EOP/OMB <Satya.P.Thallam@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic_J_Mancini@omb.eop.gov>; Dawkins, Laura M - ASP <Dawkins.Laura.M@dol.gov>
Subject: RE: (DOL/CDC/USDA) Meat Packing Guidances

Adding the CDC team.

From: Swirsky, Stephanie - ASP <Swirsky.Stephanie@dol.gov>
Sent: Monday, April 20, 2020 1:06 PM
To: Hirsch, Quinn N. EOP/OMB <Quinn.N.Hirsch@omb.eop.gov>; Horska, Katerina (HHS/IOS) <Katerina.Horska@hhs.gov>; Hawkins, Jamar (HHS/OS) <jamar.hawkins@hhs.gov>; Perry, Andrew - OBPA, Washington, DC <andrew.perry@usda.gov>; McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov>; Edens, Amanda (CDC dol.gov) <edens.mandy@dol.gov>; Brown, Christopher K. - OSHA <Brown.Christopher.K@dol.gov>; Sweatt, Loren E. - OSHA <Sweatt.Loren.E@dol.gov>
Cc: Tatham, Steph J. EOP/OMB <Stephanie_J_Tatham@omb.eop.gov>; Aguilar, Brenda L. EOP/OMB <Brenda_Aguilar@omb.eop.gov>; Thallam, Satya P. EOP/OMB <Satya.P.Thallam@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic_J_Mancini@omb.eop.gov>; Dawkins, Laura M - ASP <Dawkins.Laura.M@dol.gov>
Subject: RE: (DOL/CDC/USDA) Meat Packing Guidances

Adding the OSHA team..

Stephanie Swirsky
Deputy Assistant Secretary for Policy
U.S. Department of Labor
202/693- (b) (6) (direct)
(b) (6) (mobile)
Swirsky.stephanie@dol.gov

From: Hirsch, Quinn N. EOP/OMB <Quinn.N.Hirsch@omb.eop.gov>
Sent: Monday, April 20, 2020 12:58 PM
To: Swirsky, Stephanie - ASP <Swirsky.Stephanie@dol.gov>; Katerina Horska <katerina.horska@hhs.gov>; Hawkins, Jamar (HHS/OS) <jamar.hawkins@hhs.gov>; Perry, Andrew - OBPA, Washington, DC <andrew.perry@usda.gov>; omc2@cdc.gov
Cc: Tatham, Steph J. EOP/OMB <Stephanie_J_Tatham@omb.eop.gov>; Aguilar, Brenda L. EOP/OMB <Brenda_Aguilar@omb.eop.gov>; Thallam, Satya P. EOP/OMB <Satya.P.Thallam@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic_J_Mancini@omb.eop.gov>
Subject: (DOL/CDC/USDA) Meat Packing Guidances

Hey all,

(b) (5)
[Redacted]

[Redacted]

Please advise if this is a plan that all agencies involved are amenable to.

Thank you,
Q

Quinn N. Hirsch, MPH
Office of Information and Regulatory Affairs
Work: (202) 395- (b) (6) | Mobile: (b) (6)
Quinn.n.hirsch@omb.eop.gov
(she/her/hers)

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Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 10

From: [Levinson, Andrew - OSHA](#)
To: [Bamford, George](#); [Rubini, Jeffrey H. EOP/NSC](#); [Edens, Mandy - OSHA](#); [Pillai, Satish K. \(CDC/DDID/NCEZID/DPEI\)](#); [Patel, Anita \(CDC/DDID/NCIRD/OD\)](#); [Brown, Christopher K. - OSHA](#); [Schwartz, Erica \(HHS/OASH\)](#); [Lee, James J \(CDRH\) \(FDA/CDRH\)](#); [Agler, Heather L \(FDA/CDRH\)](#); [Cooper, Daniela H](#); [D'Alessandro, Maryann M. \(CDC/NIOSH/NPPTL\)](#); [Jennison, Peter J. EOP/NSC](#); [Jonas, Seth H. EOP/NSC](#)
Cc: [LeeAnne Jackson](#); [Colby, Michelle - OHS, Washington, DC](#); [Lawver, Christopher J. - OSHA](#); [COMPTON, TAYLOR \(CTR\)](#); [Martin, John D](#)
Subject: RE: URGENT PPE recommendations for food/ag sector workers
Date: Tuesday, March 31, 2020 8:49:35 AM
Attachments: [image001.png](#)

Hi George,

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Andy

Andrew Levinson, MPH
Deputy Director
OSHA Standards and Guidance



www.osha.gov/safeandsound
www.osha.gov/safeandsoundweek

From: Bamford, George <George.Bamford@hq.dhs.gov>
Sent: Tuesday, March 31, 2020 7:02 AM
To: Rubini, Jeffrey H. EOP/NSC <Jeffrey.H.Rubini@**(b) (6)**> Edens, Mandy - OSHA <Edens.Mandy@dol.gov>; Pillai, Satish K. (CDC/DDID/NCEZID/DPEI) <vig8@cdc.gov>; Patel, Anita (CDC/DDID/NCIRD/OD) <bop1@cdc.gov>; Brown, Christopher K. - OSHA <Brown.Christopher.K@dol.gov>; Schwartz, Erica (HHS/OASH) <Erica.Schwartz@hhs.gov>; Lee, James J (CDRH) (FDA/CDRH) <James.J.Lee@fda.hhs.gov>; Agler, Heather L (FDA/CDRH) <Heather.Agler@fda.hhs.gov>; Cooper, Daniela H <CooperDH@state.gov>; D'Alessandro, Maryann M. (CDC/NIOSH/NPPTL) <bpj5@cdc.gov>; Levinson, Andrew - OSHA <Levinson.Andrew@dol.gov>; Jennison, Peter J. EOP/NSC <Peter.J.Jennison@**(b) (6)**>; Jonas, Seth H. EOP/NSC <Seth.H.Jonas@**(b) (6)**>
Cc: LeeAnne Jackson <LeeAnne.Jackson@fda.hhs.gov>; Colby, Michelle - OHS, Washington, DC <michelle.colby@usda.gov>; Lawver, Christopher J. - OSHA <Lawver.Christopher.J@dol.gov>; COMPTON, TAYLOR (CTR) <taylor.compton@associates.cisa.dhs.gov>; Martin, John D <John.D.Martin@cisa.dhs.gov>

Subject: RE: URGENT PPE recommendations for food/ag sector workers

Good morning.

Jeff: Thanks for connecting me with this group.

All: My name is George Bamford and I am the current Director of the Food Supply Chain Task Force.

(b) (5)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Thank you.

George Bamford
Director, Food Supply Chain Task Force

(b) (6)

George.bamford@hq.dhs.gov

From: Rubini, Jeffrey H. EOP/NSC <Jeffrey.H.Rubini@hq.dhs.gov> (b) (6) >

Sent: Monday, March 30, 2020 2:40 PM

To: Edens, Mandy - OSHA <Edens.Mandy@dol.gov>; Pillai, Satish K. (CDC/DDID/NCEZID/DPEI) <vig8@cdc.gov>; Patel, Anita (CDC/DDID/NCIRD/OD) <bop1@cdc.gov>; Brown, Christopher K. - OSHA <Brown.Christopher.K@dol.gov>; Schwartz, Erica (HHS/OASH) <Erica.Schwartz@hhs.gov>; Lee, James J (CDRH) (FDA/CDRH) <James.J.Lee@fda.hhs.gov>; Agler, Heather L (FDA/CDRH) <Heather.Agler@fda.hhs.gov>; Cooper, Daniela H <CooperDH@state.gov>; D'Alessandro, Maryann M. (CDC/NIOSH/NPPTL) <bpj5@cdc.gov>; Levinson, Andrew - OSHA <Levinson.Andrew@dol.gov>; Jennison, Peter J. EOP/NSC <Peter.J.Jennison@hq.dhs.gov> (b) (6) >; Jonas, Seth H. EOP/NSC <Seth.H.Jonas@hq.dhs.gov> (b) (6) >; Bamford, George <George.Bamford@hq.dhs.gov>

Subject: RE: URGENT PPE recommendations for food/ag sector workers

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Introducing George Bamford who's working food/ag sector issues. (b) (5)
[Redacted]

Best,
Jeff

Greetings,

(b) (5)

Best,
Jeff

Jeffrey H. Rubini
Director for Response Policy
National Security Council

(b) (6)

Jeffrey.H.Rubini@(b) (6)

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 27

ORDER OF THE HEALTH OFFICER OF THE COUNTY OF MERCED
DIRECTING FOSTER FARMS POULTRY PROCESSING PLANT
IN LIVINGSTON, CA TO RESPOND TO CURRENT OUTBREAKS AT THE LIVINGSTON
COMPLEX AND COMPLY WITH OTHER DIRECTIVES OF THIS ORDER

DATE OF ORDER: August 26 , 2020

WHEREAS, the worldwide pandemic of COVID-19 disease, also known as “novel coronavirus” has infected over 7,500 Merced County residents and has resulted in the death of 112 Merced County residents.

WHEREAS, over 800 residents in the City of Livingston, located in Merced County, have been infected with COVID-19.

WHEREAS, *there is significant evidence of increasing transmission of COVID-19 within the County of Merced and surrounding counties, placing a measurable strain on the local healthcare systems.*

WHEREAS, according to the Meat and Poultry Processing Workers and Employers Interim Guidance from CDC and the Occupational Safety and Health Administration (OSHA), meat and poultry processing facilities are particularly vulnerable to COVID-19 infections due to working conditions. These conditions include prolonged, close contact with coworkers on the production line.

WHEREAS, Foster Poultry Farms maintains a poultry processing facility located in the City of Livingston.

WHEREAS, the California Department of Public Health has defined an outbreak in a congregate employment setting as three (3) or more cases of laboratory confirmed COVID-19 in employees not linked outside of the workplace.

WHEREAS, the Foster Farms complex at Livingston consists of multiple buildings on the same campus. Foster Farms first experienced an outbreak of COVID-19 at their Livingston facility on June 29, 2020, the first known case dated to June 9, 2020. As of the date of this Order, the initial outbreak is ongoing and outbreaks are widespread throughout multiple separate buildings at the Livingston facility. One department at the facility currently has an active outbreak that has affected 105 workers and other departments have active outbreaks affecting over 20 workers. Of the approximate 2,600 workers at the Livingston facility, 13.7 percent of the workforce has received a positive test result based on worker self-reporting. Most concerning is that these current testing figures do not accurately represent the extent of outbreak at the facility as universal testing has not been accomplished within the timeline necessary to accurately identify the extent of the outbreak.

WHEREAS, since April 24, 2020, the Merced County Department of Public Health (MCDPH) has received report of 358 confirmed cases of COVID-19 and eight (8) deaths attributed to COVID-19 linked to workers from the Foster Farms Livingston facility. Five (5) of the eight (8) deaths occurred in a hospital located outside of Merced County, illustrating the serious impact of the Foster Farms outbreak on healthcare systems and the community-at-large in California.

WHEREAS, in the past month, Foster Farms has experienced an increase of 214 reported cases of COVID-19 positive workers and six (6) deaths. Weekly reports from Foster Farms indicate the outbreak has continued since the initial reported outbreak on June 29, 2020.

WHEREAS, to-date, there has been insufficient timely testing of Foster Farms workers to assess the true extent of cases at the facility. Without accurate information on the number of cases, it is not possible to properly identify workers who require testing and/or quarantine because of exposure to the virus. This is hampered by the difficulty of testing and monitoring a growing temporary workforce. Hospital data on current hospitalizations and mortality has been slowly reported to MCDPH, further complicating decisive interventions that would allow a safe production process to continue at the facility.

WHEREAS, the Merced County Health Officer issued Directives to Foster Farms on August 5, 2020 and August 11, 2020, providing specific direction on testing requirements and other measures to control the spread of COVID-19 within the Livingston building. In summary, these Directives required immediate COVID PCR testing of all permanent, volunteer, and temporary employees who share air within a facility that has an outbreak (three or more individuals within the same building). Once an outbreak is initiated within a building, the outbreak is not considered resolved until the building reports zero additional cases for two consecutive weeks, or until universal testing of the building within the previous three (3) day period, reveals less than 1% positivity rate within the workforce.

WHEREAS, in response to the previous Merced County Health Officer Directives, Foster Farms has not implemented the required universal testing of the entire Livingston Complex, as directed. Over the three-week period since the August 5, 2020 directive was issued, the spread of disease within the facility has not been contained and active outbreaks continue to spread, creating a public nuisance as defined by California Penal Code 370 and Civil Code 3479, and posing a great risk to the health and safety of Merced County residents and the surrounding counties. Given the current epidemiological data, the slowness in testing workers, and the time necessary to complete comprehensive contact tracing and quarantine those who are exposed, partial closure of the facility for timely, universal testing of all workers and sanitation is necessary.

WHEREAS, based on the increasing number of positive COVID-19 cases at the Foster Farms Livingston Facility, the mounting death rates, the delay in implementation of a comprehensive testing scheme, the need for comprehensive contact tracing and quarantine of those exposed, decisive intervention is essential to control the COVID-19 outbreak. It is imperative that the Merced County Health Officer issue this Order to protect and preserve the health of workers at the Facility and residents of Merced County, surrounding counties, and the State of California.

Under the authority of California Health and Safety Code Sections 101040, 101085, 120175; California Government Code Sections 8610, 8630, and 8634; Article XI of the California Constitution; Title 17 California Code of Regulations Section 2501; and Merced County Code Chapter 2.72, the Health Officer of the County of Merced ("Health Officer") Orders Foster Poultry Farms A Corp (Foster Farms):

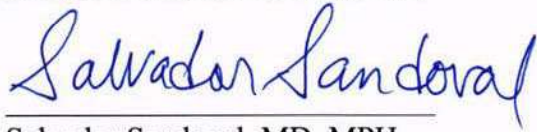
1. **Livingston Plant (including, but not limited to, Food Service Operations, Livingston Plant 1, Livingston Plant 2, Livingston Retail Packaging, Livingston Weigh and Price, and Livingston Rotis Room)** located at 843 Davis St., Livingston, CA 95334: To cease all operations within twelve (12) hours of issuance of this Order including any and all on-site manufacturing, transportation, processing, food service, packing, administrative, and/or other similar operations within Livingston Plant for the purposes of deep cleaning and testing all workers (permanent, temporary, contract, volunteer, and other) for clearance (as defined as two (2) negative PCR COVID-19 tests taken at least three (3) days but no more than seven (7) days apart), and implementing other measures in compliance with this Order. Foster Farms is further required to direct its agents, employees, officers, and others acting on its behalf, as well as subsidiaries, affiliates, and other entities controlled by Foster Farms, in such a manner as to ensure the closure of the entire Livingston Plant and that Livingston Plant on-site operations cease and resume only in accordance with this Order.
 - a. Once Foster Farms accomplishes the requirements of this Section to the satisfaction of the Merced County Public Health Officer and/or Health Officer designee (MCDPH contact), Foster Farms may be able to resume operations at the Livingston Plant facility.
 - b. No worker may return to work at the Livingston Plant until they have received two (2) negative PCR COVID-19 tests taken at least three (3) days but no more than seven (7) days apart.
2. **NCDC 2** located at 843 Davis St., Livingston, CA 95334: will be allowed to remain open and operational despite active outbreak status due to the ability to maintain at least six (6) foot social distancing within the workplace and a lower worker density within the facility, if:
 - a. Foster Farms enforces 6 feet of social distancing between workers at NCDC 2;
 - b. The current break room(s) are closed and Foster Farms provides an alternative, appropriate break space that can accommodate and ensure social distancing (that is actively monitored); and
 - c. Foster Farms to provides food provisions, accommodating dietary needs to its workers to preventing the need for kitchen facilities for all workers with the facility until outbreak is cleared from NCDC 2 facility;
 - d. Items 2(b)-(c) shall remain in place until the facility is cleared, defined as <1% positivity rate of the entire workforce at the NCDC 2, tested same day, for 2 rounds of testing, three (3) days apart. If testing positivity rate is greater than 1%, testing must be continued every three (3) days until outbreak is cleared.
3. **All Other Facilities** located at 843 Davis St., Livingston, CA 95334 and 1000 Davis St., Livingston, CA 95334: can remain open and operational, if:
 - a. All employees (permanent, temporary, contract, volunteer, and other) are tested immediately and every seven (7) days thereafter until Livingston Complex is cleared from outbreak. If testing positivity rate is greater than 1%, testing must be increased to every three (3) days.

4. Conduct a terminal cleaning of the entirety of the Livingston Complex through a qualified cleaning agency either during facility closure or within seven (7) days of the issuance of this Order. Ensure that high-traffic areas and high-touch areas are disinfected following CDC guidelines:
<https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html> and
https://www.cdc.gov/coronavirus/2019-ncov/community/pdf/REopening_America_Guidance.pdf.
5. The following COVID-19 line lists of data, at a minimum and as required by MCDPH, shall be reported to the MCDPH contact directly in a format determined by MCDPH and at intervals determined by MCDPH, but at no time less often than two times each week on Tuesdays and Fridays by 12:00PM:
 - a. Worker full name, date of birth, gender, race, phone number, county of residence, job title, location in facility/assigned department, unit/shift (e.g., day, night, swing), if the individual works in another facility/location and name of the other facility, positive test date, last day worked, symptom start date (note if asymptomatic), testing location, if worker was tested due to part of mandated response testing, type of test used (e.g., PCR, antigen), return to work date, if worker was hospitalized due to illness, hospitalization date, if worker died due to illness (if yes, immediately e-mail the MCDPH contact), date of death, number of close contacts sent home/teleworking due to exposure, and if the case was a close contact to another index/case in the facility.
 - b. The full laboratory testing line list data (including on-site testing), at a minimum, shall be reported to the MCDPH contact directly in a format and at intervals determined by MCDPH, including worker full name, date of birth, phone number, address of residence, county of residence, test result, and test date. Submission via the CalREDIE system alone will not be accepted.
6. Immediately upon issuance of this Order, a COVID-19 Mitigation Plan for the entire Livingston Complex is required to be prepared and submitted to and approved by the MCDPH contact and shall include continued proper COVID-19 worker medical screening, symptom-based testing, and testing of new hires and temporary workers, including the following:
 - a. Permanent employees, temporary workers, contract workers, and/or volunteers that present with a positive COVID-19 test result shall be sent home from work for the required quarantine period and follow MCDPH, California Department of Public Health (CDPH), and CDC requirements and guidance. Workers who refuse or are unable to be tested as directed by MCDPH should be quarantined at home for 14 days, and shall not be allowed to work during the isolation period as defined by CDC:
<https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html>.
 - b. Workplace contact tracing shall be conducted by Foster Farms within 24 hours of notification of a positive employee. Close contacts, is defined as being within six

- (6) feet for more than 15 minutes during the case's infectious period to positive workers. Close contacts shall be sent home from work for a 14-day quarantine period. The infectious period begins 48 hours prior to development of symptoms. For the purposes of contact tracing of individual who were asymptomatic and tested positive, the infectious period commences 48 hours prior to the day the sample was collected.
- c. Temporary workers, permanent employees, contract employees, and/or volunteers will not be allowed to begin work without submitting proof to Foster Farms of a COVID-19 negative point-of-care antigen or PCR test result dated same day before start of work up to 48 hours before the start date.
 - d. Symptom-based testing is required when a permanent employee, temporary worker, contract worker, and/or volunteer presents with any one of the COVID-19 symptoms described by the CDC in the following guidance:
<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.
Immediately upon notice to or observation by Foster Farms of any one of the COVID-19 symptoms by any worker at the site, testing of the worker shall immediately occur by either PCR or point-of-care antigen testing, or other Health Officer approved testing method, and results shall be obtained within 24-48 hours.
 - e. When there is a COVID-19 outbreak of three (3) permanent employees, temporary workers, contract workers, and/or volunteers in any building, or area that shares the same air supply, all individuals who had worked in the area during the potential outbreak period (within 48 hours prior to the onset of symptoms of a positive employee throughout the duration of the outbreak) must be tested for COVID-19 by PCR immediately and every seven (7) days thereafter until the building reports zero additional cases for two consecutive weeks, or until universal testing of the building reveals less than 1% positivity rate within the workforce.
 - f. The employer is responsible for ensuring all workers, including temporary workers, permanent employees, contract employees, and/or volunteers, are offered and provided COVID-19 testing at no cost to the employee.
7. As soon as practical, but no less than 14 days of issuance of this Order, expand the on-site Occupational Health program and clinic, consisting of a designated licensed medical or nursing professional and liaison for MCDPH to ensure and oversee proper COVID-19 worker medical screening processes, contact tracing, case investigation and referral to health care provider as needed, accurate data collection and reporting of all workers tested, reporting of all COVID-19 positive results regardless of county of residence, immediate notification of COVID-19 related hospitalizations to the MCDPH contact and CalOSHA, immediate reporting of COVID-19 related deaths to the MCDPH contact and CalOSHA, data quality assurance verification protocol, and the implementation of adequate COVID-19 surveillance testing and reporting to the MCDPH contact, as approved by MCDPH. These requirements are subject to review and supervision by MCDPH to ensure adequate procedures and practices are implemented.
8. Foster Farms management shall ensure that all employees be informed of testing requirements, outbreaks that occur, areas affected, and trained on safety requirements, in English, Spanish, and Punjabi, working with the union as applicable.

9. Provide proper face coverings at no cost to all contract employees, permanent employees, temporary workers, and/or volunteers prior to each shift, and if a replacement is needed during a shift, and require use as directed in the Merced County Health Officer Order.
10. Foster Farms shall follow all State Orders, including State COVID-19 Industry Guidance for Food Packing and Processing: <https://files.covid19.ca.gov/pdf/guidance-food-packing-en.pdf>.
11. This Order is issued in accordance with, and incorporates by reference, the: March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom; March 12, 2020 Executive Order N-25-20 and March 19, 2020 Executive Order N-33-20, each issued by Governor Newsom ordering all state residents to heed any orders and guidance of state and local public health officials with respect to COVID-19; May 4, 2020 Executive Order N-60-20 issued by Governor Newsom ordering various protocols and reaffirming the existing authority of local health officers to establish public health measures that are more restrictive or additional to statewide directives; Government Code section 8567(a); the March 13, 2020 Declaration of Local Health Emergency in Merced County pursuant to Health and Safety Code section 101080; the March 13, 2020 Proclamation of Local Emergency pursuant to Government Code section 8630 and Merced County Code section 2.72.060; the March 16, 2020 Resolutions of the Board of Supervisors of the County of Merced ratifying the Local Emergency and Local Health Emergency; and the California Department of Public Health, Cal/OSHA, and the California Department of Food and Agriculture jointly issued Industry Guidance for Food Packing and Processing updated on July 29, 2020 and any future dated updates.
12. Violation of this Order by Foster Farms is a misdemeanor punishable by fines up to \$1,000 per day, imprisonment of 90 days, or both. Violation also subjects Foster Farms to civil enforcement actions including injunctive relief, attorneys' fees and costs. A violation of this Order constitutes a public nuisance. (Health and Safety Code Sections 120275 and 120295; Penal Code Sections 19 and 370; Government Code Sections 25132 and 8665; Merced County Code 2.72.100)
13. Pursuant to Government Code Sections 26602 and 41601 and Health and Safety Code Sections 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.
14. Copies of this Order shall promptly be: (1) made available at the County Administration Building at 2222 M Street, Merced, California 95340; (2) and provided to any member of the public requesting a copy of this Order.

SO ISSUED AND ORDERED:



Salvador Sandoval, MD, MPH
Merced County Health Officer

Dated: August 26, 2020

Time: 2025 hr

NOTICE OF RIGHTS

1. If you object to this order, you have a right to arrange for your own legal representative.
2. You have a right to also file for judicial relief to seek release from the order.
3. All requests to contact the County Health Officer will be through Merced County Department of Public Health at 209-381-1203 during normal business hours.



Salvador Sandoval, MD, MPH
Merced County Health Officer

Dated: August 26, 2020

2025 hr.

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 31

(Also encompassing duplicate Document No. 36)

U.S. Department of Labor

Occupational Safety and Health Administration
SIOUX FALLS AREA OFFICE
4404 South Technology Drive
Sioux Falls, SD 57106



April 7, 2020

Ken Winter
Smithfield Foods
1400 North Weber Avenue
Sioux Falls, SD 57103

RE: OSHA Complaint No. 1566977

Dear Mr. Winter:

On April 7, 2020, the Occupational Safety and Health Administration (OSHA) received a notice of alleged workplace hazard(s) at your worksite at:

1400 North Weber Avenue
Sioux Falls, SD 57103

We notified you by telephone of these alleged hazards on April 7, 2020. The specific nature of the alleged hazards is as follows:

- 1) The employer has not instituted additional precautions/procedures for employees to assist in preventing employee exposure to the COVID-19 virus. Precautions/procedures to include, but not limited to, CDC/OSHA recommendations. Contrary to Section 5(a)(1) of the OSH Act of 1970.

We have not determined whether the hazards, as alleged, exist at your workplace, and we do not intend to conduct an inspection at this time. However, because allegations of violations and/or hazards have been made, we request that you immediately investigate the alleged conditions and make any necessary corrections or modifications. Please advise me in writing, no later than **April 14, 2020**, of the results of your investigation. You must provide supporting documentation of your findings. This includes any applicable measurements or monitoring results; photographs/video that you believe would be helpful; and a description of any corrective action you have taken or are in the process of taking, including documentation of the corrected condition. Please feel free to contact the office at (605) 361-9566 if you have any questions or concerns.

This letter is not a citation or a notification of proposed penalty which, according to the Occupational Safety and Health Act, may be issued only after an inspection or investigation of the workplace. It is our goal to assure that hazards are promptly identified and eliminated. Please take immediate corrective action where needed. **If we do not receive a response from you by April 14, 2020 indicating that appropriate action has been taken or that no hazard exists and why, an OSHA inspection will be conducted.** An inspection may include a review of the following: injury and illness records, hazard communication, personal protective equipment, emergency action or response, bloodborne pathogens, confined space entry, lockout/tagout, and related safety and health issues.

Please also be aware that OSHA conducts random inspections to verify that corrective actions asserted by the employer have actually been taken.

If you need assistance in resolving the issues alleged in this complaint, you may contact the OSHA on-site consultation service. This program offers free and confidential assistance to small and medium-sized businesses in all states across the country, with priority given to high-hazard worksites. If necessary, a consultant will visit your workplace and assess the validity of the complaint item(s). In addition, you will be provided with methods of correcting the hazard, where applicable. To discuss or request these services, contact the consultation project in your respective state. In South Dakota, the consultation program can be reached at the following address and phone number:

SDSU Engineering Extension / South Dakota OSHA Consultation Program
Jerome J. Lohr College of Engineering
Box 2219, Crothers Engineering Hall 316
Brookings, SD 57007
(605) 688-4101
<http://www.sdstate.edu/engr/extension/index.cfm>

Also, please find a copy of the OSHA pamphlet, "[FREE Safety and Health Consultation Services](#)" for your use in [English](#) or [Spanish](#).

You are requested to post a copy of this letter where it will be readily accessible for review by all of your employees, and to return a copy of the signed Certificate of Posting (Attachment A) to this office. In addition, you are requested to provide a copy of this letter and your response to a representative of any recognized employee union or safety committee that exist at your facility. Failure to do this may result in an on-site inspection. The complainant has been furnished a copy of this letter and will be advised of your response. Section 11(c) of the Occupational Safety and Health Act provides protection for employees against discrimination because of their involvement in protected safety and health activity.

If you have any questions regarding this matter, please contact our office. The contact information is listed on the first page of this document. Your interest in the safety and health of your employees is appreciated.

Sincerely,



For Sheila Stanley
 Area Director

Attachment A

**CERTIFICATE OF POSTING
OSHA NOTIFICATION OF ALLEGED HAZARD(S)**

Employer Name: Smithfield Foods
Complaint Number: 1566977

Date of Posting: _____

Date Copy Given to an Employee Representative: _____

On behalf of the employer, I certify that, on _____ **[FILL IN DATE]**, a copy of the complaint letter received from the Occupational Safety and Health Administration (OSHA) was posted in a place where it is readily accessible for review by all employees, or near such location where the violation occurred, and such notice has been given to each authorized representative of affected employees, if any. This notice was or will be posted for a minimum of ten (10) days or until the hazardous conditions referenced in the letter are corrected.

Signature

Title

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 32



Smithfield Foods
1400 North Weber Avenue
Sioux Falls, SD 57103

4/13/2020

Sheila Stanley
Occupational Safety and Health Administration
SIOUX FALLS AREA OFFICE
4404 South Technology Drive
Sioux Falls, SD 57106

Re: OSHA Activity No. 1566977

Dear Ms. Stanley,

This letter is in response to the correspondence OSHA Activity No. 1566977, received from your office on April 7, 2020. Please consider this our response to your letter. The specific nature of the allegations are as follows;

Complaint Item #1. The employer has not instituted additional precautions/procedures for employees to assist in preventing employee exposure to the COVID-19 virus. Precautions/procedures to include, but not limited to, CDC/OSHA recommendations. Contrary to Section 5(a)(1) of the OSH Act of 1970.

Smithfield Foods is considered a critical infrastructure operating facility in the food and agriculture industry, as defined by the U.S. Department of Homeland Security. As such, our workers are needed to maintain the continuity of our processing functions. We have instituted practices consistent with those communicated by the Centers for Disease Control (CDC) and OSHA. To assist in protecting personnel we have taken the following steps;

- We have communicated to employees to watch for symptoms of COVID-19 including fever, cough, and shortness of breath;
- We have instructed employees to stay home if sick based on the symptoms above, if they have exposure to someone diagnosed with COVID-19, or have been to a location or area with widespread ongoing community spread such as Level 3 Travel Health Notice countries;
- We have communicated steps to protect self and others, through covering coughs and sneezes, with a tissue or use the inside of elbow, and to throw used tissues in the trash;
- We have promoted frequent and thorough hand washing and/or provided alcohol-based sanitizing solution; and,
- Personnel self-identified with potential elevated risk are allowed to work from home or stay home.

We have communicated these protective measures verbally to employees in one-on-one communications and in department meetings. In addition to verbal communications, we have signage and postings reiterating the information and also through a message from our Company CEO which plays continuously on our televisions in the break rooms. In addition to the steps noted above, we have limited all non-essential visitors to our facility.

Due to the nature of our business, employees in food production areas already are issued and wear nitrile gloves to prevent the spread of germs as part of their required attire. This PPE was in place prior to COVID-19. All employees washing and sanitizing their hands multiple times daily also is part of our pre-existing normal required work practices, but we have reiterated and emphasized the importance of these steps in our communications during this pandemic. We have also added sanitizer stations, both inside and outside the plant.

These infection management steps are monitored by management and quality assurance personnel and non-management employees are encouraged to monitor themselves and others as well, consistent with our policy that safety is everyone's job.

We encouraged employees to use cloth masks and have also made dust masks and surgical mask available if requested. We have implemented protocols for thermal screenings at employee entrances, and actions to take if an employee screens with an elevated temperature. Protocols also include social distancing and required PPE for personnel while conducting the screenings. Our employees have been instructed to stay home if sick. The Company is sending anyone home that becomes sick at work.

To assist with social distancing, we are staggering lunches and breaks, installed Plexiglas barriers to various areas such as Health Services, HR windows, mechanical store room, plant store room, cafeteria checkout counters, and main guard shack, etc. We have also added table dividers in lunch rooms and hung dividers on productions lines where 6 foot distance cannot be maintained and repositioned office spaces in the administration building for distancing and limited access to others. We have stressed the importance of social distancing and are continuously evaluating for additional measures to assist with social distancing while maintaining food production as an essential business.

Our production facility undergoes regular cleaning and sanitation by our in-house sanitation crew. Soon after news of COVID-19 broke, we began additional cleaning and disinfecting of frequently touched surfaces in welfare and common areas of our facility with cleaning solutions identified by the CDC for this purpose. This

additional cleaning is completed multiple times throughout each day. Areas cleaned and disinfected outside the production areas include but are not limited to the following;

Common Areas:

- Countertops, microwave control panel, copy machine control panel, tables, sink, faucets, all door handles (Offices, Restrooms, Entrance Doors) and handrails on all stairwells including maintenance and stockyards

Breakrooms:

- Countertops, microwave control panels, time clock control panels, tables, all door panels and handles (Entrances to Breakroom, Production, Restrooms and Locker Room Doors), all light switch covers, all vending machine controls and door handles

Lobbies:

- Door handles and counters

Offices:

- Copy machine control panels, light switch covers, office door handles, and conference room tables,

Restrooms:

- Sinks, faucets appliances, appliance handles, and door handles

Locker Rooms:

- Locker room door handles and benches

Additional deep cleaning and disinfection is occurring in these areas on weekends.

At Smithfield Foods – Sioux Falls, we are committed to the health and wellbeing of our employees. We are confident that the measures we've taken are assisting at protecting our employees. If you have further questions, or we can be of further assistance, please contact us.

Respectfully,

(b) (6), (b) (7)(C)

Mark Wiggs
General Manager

(b) (6), (b) (7)(C)

Ken Winter
Director, EHS

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
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Document No. 33

Smithfield®

Good food. Responsibly.®

Sioux Falls

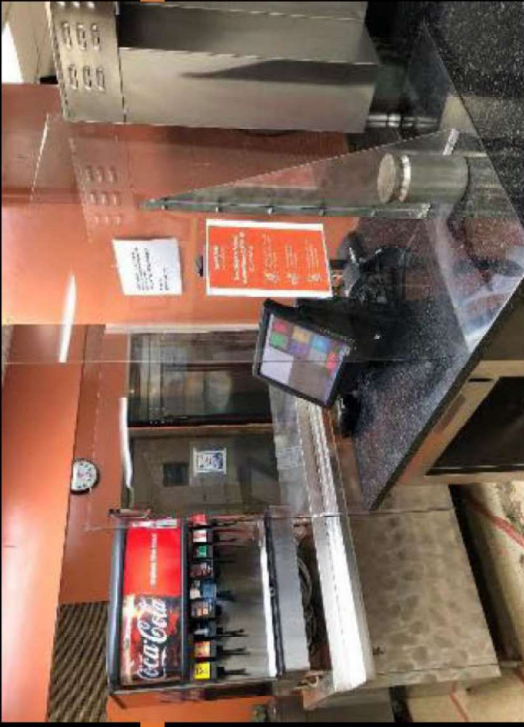




Temperature Checks



Sanitizer Stations



Social Distancing



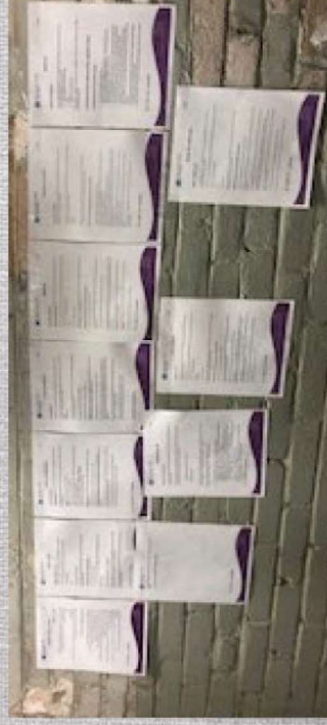
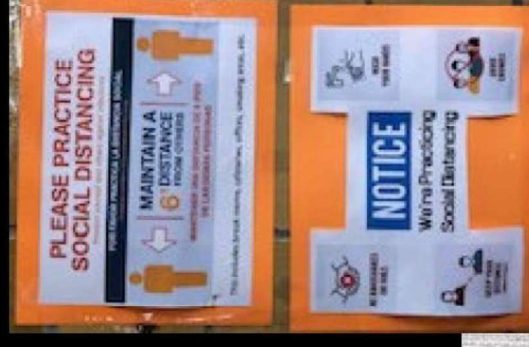
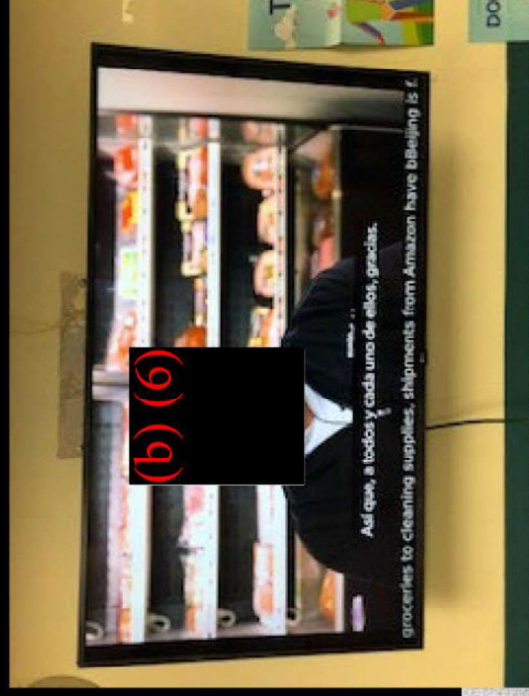
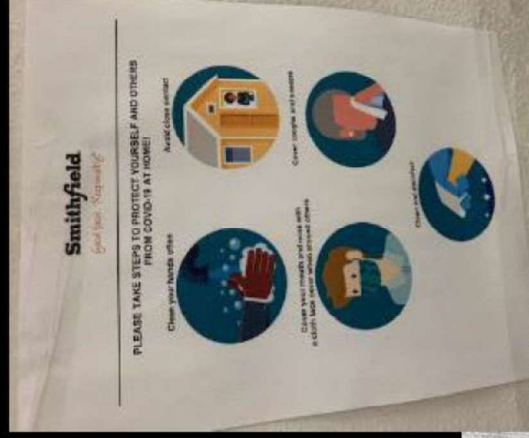


Social Distancing

(b) (4)

Social Distancing

Signage / Posters / Communications



Signage / Posters / Communications



Health & Benefits

Important Phone Numbers:

(b) (4)

COVID-19 Symptoms? Not feeling well? Call **(b) (4)** or your own doctor. Do NOT come to Health Services.

Doctor Notes: Fax to **(b) (4)** or email to **(b) (4)**. Please include your employee ID #.

Insurance or FMLA Questions? Call **(b) (6)** at **(b) (6), (b) (4)** or email her at **(b) (6), (b) (4)**. Include your phone number and ID#.





Personal Protective Equipment

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached
to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 34

THE NEW MOLECULE FOR FOOD SAFETY!

**A NEW GENERATION
OF PROTECTION**

pure



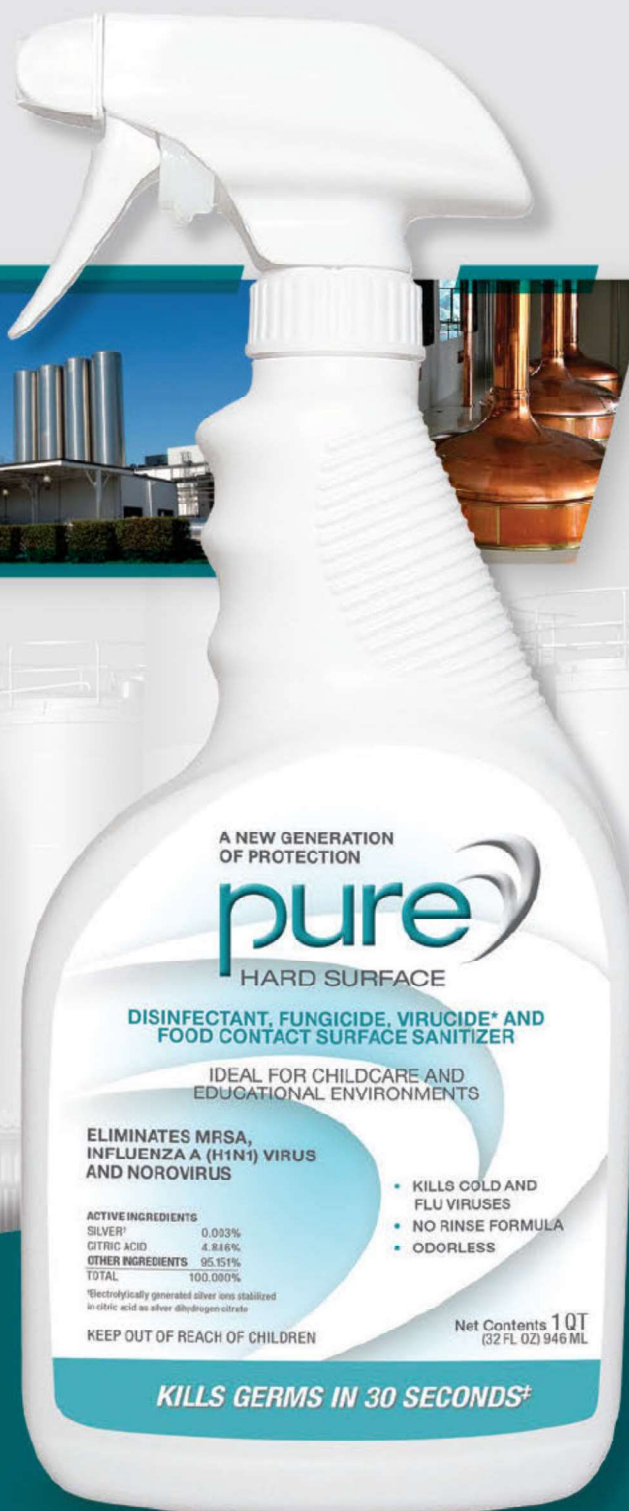
THE ONLY ONE

- **Fast Kill Times**
- **GRAS Status as Contact Biocide**
- **Can Be Used Safely in the Presence of Workers and Customers**
- **Eliminates Bacteria, Virus and Fungi**
- **24-Hour Residual Protection**
- **Odorless, No Skin Irritation, Non-flammable**
- **No Rinse Required**
- **Ideal for Use in Food Processing, Food Preparation and Hospitality**

40 CODE OF FEDERAL REGULATIONS (CFR) 180.940(a)

Historically, sanitizers were regulated by the FDA under 21 CFR 178.1010. The authority to regulate the use of sanitizers on food equipment and utensils was transferred to the US EPA by the 1996 Food Quality Protection Act (FQPA).

In 40 CFR 180.940(a) the EPA exempts electrically generated silver ions, stabilized in citric acid as silver dihydrogen citrate, not to exceed 50 ppm, from the requirements of a tolerance when used in accordance with Good Manufacturing Practices as an ingredient in an antimicrobial pesticide (sanitizer) formulation, provided that the formulation is applied on a semi-permanent or permanent food contact surface with adequate drainage before contact with food.



**PROTECT YOUR COMPANY
AND YOUR REPUTATION
WITH CONFIDENCE**



Comparison Table

DESCRIPTION	CHLORINE DIOXIDE	BLEACH	QUAT	PERACETIC ACID	IODOPHORE	PURE HARD SURFACE
ACTIVE INGREDIENT	Chlorine Dioxide (2%) Concentrate [concentrate contains 3.35% sodium chlorite]	Sodium hypochlorite (5-20%) Concentrate	Quaternary Ammonium Chloride Concentrate (4-10%) or RTU (0.02%)	Peroxyacetic Acid (15%) Concentrate	Iodine (1-5%) Concentrate	<i>Silver Ions (0.003%) as silver dihydrogen citrate (SDC) stabilized with citric acid (4.846%) RTU</i>
SIGNAL WORD/HMS	Concentrate: Warning/ Concentrate: 1,0,1	Concentrate: Danger/ Concentrate: 3,0,0;	Concentrate: Danger; RTU: Caution/ Concentrate: 3,0,0; RTU: 1,0,0	Concentrate: Danger/ Concentrate: 3,0,0	Concentrate: Danger/ Concentrate: 3,0,0	<i>None/ 0,0,0</i>
PRECAUTIONARY STATEMENTS	Corrosive: Hazard to humans and domestic animals. Harmful if swallowed; May cause irritation. Avoid contact with eyes.	Corrosive: Hazard to humans and domestic animals. Harmful or fatal if swallowed. Contact can cause severe irritation, burns, eye or lung damage, blindness, death. Avoid contact with eyes, skin, clothing, inhalation of vapors, mist or gas.	Corrosive: Hazard to humans and domestic animals. Causes irreversible eye damage and burns. Harmful if inhaled, swallowed or absorbed through the skin. Avoid contact with eyes, skin or clothing. Avoid breathing spray mist.	Corrosive: Hazard to humans and domestic animals. Causes irreversible eye damage and burns. Avoid contact with eyes, skin or clothing.	Corrosive: Hazard to humans and domestic animals. Causes eye or skin damage. Harmful or fatal if swallowed. Causes skin and eye burns. Avoid contact with eyes, skin or clothing.	<i>Not required</i>
COMMENTS	Requires activation prior to use	Corrosive to metal surfaces		Strong oxidizing agent	Staining on some surfaces.	<i>GRAS Status as Contact Biocide</i>
RESIDUAL PROTECTION	None	None	None	None	None	<i>24-hours</i>
VARIOUS END USE DILUTION OPTIONS AND INSTRUCTIONS - SANITIZATION	Sanitize Hard, Non-Porous, Food Contact Surfaces • Use Dilution: 50 - 200 ppm available chlorine dioxide • Contact Time: Thoroughly Wet for 1 minute	Sanitize Hard, Non-Porous, Food Contact Surfaces • Use Dilution: 200 – 600 ppm available chlorine • Contact Time: Thoroughly Wet for 2 minutes	Sanitize Hard, Non-Porous, Food Contact Surfaces • Use Dilution: 200 ppm available active quaternary ammonium chloride • Contact Time: Thoroughly Wet for 1 minute	Sanitize Hard, Non-Porous, Food Contact Surfaces • Use Dilution: 200 ppm peroxyacetic acid • Contact Time: Thoroughly Wet for 1-2 minutes	Sanitize Hard, Non-Porous, Food Contact Surfaces • Use Dilution: 12.5 - 25 ppm titratable iodine • Contact Time: Thoroughly Wet for 2 minutes	<i>Sanitize Hard, Non-Porous, Food Contact Surfaces • Use Dilution: 30 ppm Silver Ion (RTU) • Contact Time: Thoroughly Wet for 1 minute</i>
VARIOUS END USE DILUTION OPTIONS AND INSTRUCTIONS - DISINFECTION	Disinfect Hard, Non-Porous Surfaces • Use Dilution: 500 ppm available chlorine dioxide	Disinfect Hard, Non-Porous Surfaces • Use Dilution: 600 ppm available chlorine	Disinfect Hard, Non-Porous Surfaces • Use Dilution: 660 – 1000 ppm active quaternary	Disinfect Hard, Non-Porous Surfaces • Use Dilution: 800 ppm peroxyacetic acid	• Disinfect Hard, Non-Porous Surfaces • Use Dilution: Not specified on Master Label	<i>Disinfect Hard, Non-Porous Surfaces • Use Dilution: 30 ppm silver ion (RTU)</i>
ORGANISM	DISINFECTANT KILL TIMES/DILUTION ¹	DISINFECTANT KILL TIMES/DILUTION ²	DISINFECTANT KILL TIMES/DILUTION ³	DISINFECTANT KILL TIMES/DILUTION ⁴	DISINFECTANT KILL TIMES/DILUTION ⁵	DISINFECTANT KILL TIMES/DILUTION ⁶
ESCHERICHIA COLI	Not specified on Master Label	Not specified on Master Label	10 minutes/660 ppm	Not specified on Master Label	Not specified on Master Label	<i>2 minutes/30 ppm</i>
PSEUDOMONAS AERUGINOSA	10 minutes/500 ppm	Not specified on Master Label	10 minutes/660 ppm	Not specified on Master Label	Not specified on Master Label	<i>30 seconds/30 ppm</i>
SALMONELLA ENTERICA	Not specified on Master Label	Not specified on Master Label	10 minutes/660 ppm	10 minutes/800 ppm	Not specified on Master Label	<i>30 seconds/30 ppm</i>
LISTERIA MONOCYTOGENES	Not specified on Master Label	Not specified on Master Label	10 minutes/660 ppm	Not specified on Master Label	Not specified on Master Label	<i>2 minutes/30 ppm</i>
STAPHYLOCOCCUS AUREUS	10 minutes/500 ppm	Not specified on Master Label	10 minutes/660 ppm	10 minutes/800 ppm	Not specified on Master Label	<i>2 minutes/30 ppm</i>
CAMPYLOBACTER JEJUNI	Not specified on Master Label	Not specified on Master Label	Not specified on Master Label	Not specified on Master Label	Not specified on Master Label	<i>2 minutes/30 ppm</i>
MURINE NOROVIRUS	Not specified on Master Label	Not specified on Master Label	Not specified on Master Label	10 minutes/800 ppm	Not specified on Master Label	<i>60 seconds/30 ppm</i>
NOROVIRUS (FELINE CALICIVIRUS)	Not specified on Master Label	Not specified on Master Label	Not specified on Master Label	Not specified on Master Label	Not specified on Master Label	<i>60 seconds/30 ppm</i>

EPA Reg strat on Nos.: 1. 9804-1; 2. 148-628 and 875-47; 3. 5736-61 and 6836-180; 4. 875-107, 1043-120 and 1043-119; 5. 875-183 and 1677-89; 6. 72977-5;

*Comparison based on master labels as of June 2011.

For more information contact PURE Bioscience:

telephone: 619.596.8600 web: www.purebio.com



PURE Bioscience, Inc. develops and markets technology-based bioscience products that provide solutions to numerous global health challenges. PURE's proprietary high efficacy/low toxicity bioscience technologies, including its silver dihydrogen citrate-based antimicrobials, represent innovative advances in diverse markets and lead today's global trend toward industry and consumer use of "green" products while providing competitive advantages in efficacy and safety. Patented SDC is an electrolytically generated source of stabilized on-site silver, which formulates well with other compounds. As a platform technology, SDC is distinguished from competitors in the marketplace because of its superior efficacy, reduced toxicity and the inability of bacteria to form a resistance to it. PURE is headquartered in Encinitas, California (San Diego metropolitan area). Additional information on PURE is available at www.purebio.com.

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 35

Public Citizen v. Department of Labor
No. 1:20-cv-02495-EGS (D.D.C.)

October 2021 Record Release

DOL Chart of Fully-Withheld Records (version attached to
email from Glass to Pulver (Oct. 6, 2021))

Document No. 37



Citation and Notification of Penalty

To:
JBS Foods, Inc., dba Swift Beef Company
800 N. 8TH AVENUE
Greeley, CO 80631

Inspection Number: 1475131
Inspection Date(s): 05/11/2020 - 08/31/2020
Issuance Date: 09/11/2020

Inspection Site:
800 N. 8TH AVENUE
Greeley, CO 80631

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970 (the Act). The penalties listed herein are based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or** you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violations cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violations cited herein have been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period by calling (303) 844-5285. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citations and/or penalties.

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove, and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

Right to Contest – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. **Unless you inform the Area Director in writing that you intend to contest the citations and/or proposed penalties within 15 working days after receipt, the citations and the proposed penalties will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.**

Penalty Payment – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type “OSHA” and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will process the payments as if these restrictions or conditions do not exist.

Notification of Corrective Action – For each violation which you do not contest, you must provide ***abatement certification*** to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that ***abatement documentation*** is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

Employer Discrimination Unlawful – The law prohibits discrimination by an employer against an

employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 09/11/2020. The conference will be held by telephone or at the OSHA office located at 1391 Speer Blvd, Suite 210, Denver, CO 80204 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1475131

Company Name: JBS Foods, Inc., dba Swift Beef Company
Inspection Site: 800 N. 8TH AVENUE, Greeley, CO 80631
Issuance Date: 09/11/2020

List the specific method of correction for each item on this citation in this package that does not read "Corrected during Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 1391 Speer Blvd, Suite 210, Denver, CO 80204.**

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature

Date

Typed or Printed Name

Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review



Citation and Notification of Penalty

Company Name: JBS Foods, Inc., dba Swift Beef Company

Inspection Site: 800 N. 8TH AVENUE, Greeley, CO 80631

Citation 1 Item 1 Type of Violation: **Serious**

OSH ACT of 1970 Section (5)(a)(1): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were working in close proximity to each other and were exposed to SARS-CoV-2, the virus that causes Coronavirus Disease 2019 (COVID-19):

- (a) **JBS Foods, Inc. dba Swift Beef Company at 800 N. 8th Avenue in Greeley, CO:** On or about and at times prior to March 25, 2020, the employer did not develop or implement timely and effective measures to mitigate the exposures to the hazard of SARS-CoV-2, the virus that causes Coronavirus Disease 2019 (COVID-19). Employees throughout the establishment worked in close proximity to each other during the COVID-19 pandemic exposing them to the hazard of contracting COVID-19. Hundreds of employees contracted the virus and developed symptoms ranging from mild irritation to severe illnesses that resulted in at least 51 hospitalizations and six fatalities due to COVID-19 related illnesses. As of July 30, 2020, the employer had 290 confirmed positive cases at the establishment.

Among other methods, recognized and feasible means of abatement for this hazard include:

1. Establish, implement, and enforce a social distancing program on the fabrication floor and in break areas that allow for at least a six-foot distance between workers where feasible;
2. When workers are unable to socially distance at least six feet from one another, implement protective measures such as barriers between work stations, face coverings, and face shields on the fabrication floor and in break areas and communicate the purpose and correct usage of such measures;
3. The use of symptom screening prior to allowing employees to enter the establishment and in the onsite clinic; and
4. The employer should work with state, local, tribal and/or territorial health officials to facilitate the identification of other exposed and potentially exposed employees at the establishment.

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1475131
Inspection Date(s): 05/11/2020 - 08/31/2020
Issuance Date: 09/11/2020



Citation and Notification of Penalty

Company Name: JBS Foods, Inc., dba Swift Beef Company
Inspection Site: 800 N. 8TH AVENUE, Greeley, CO 80631

ABATEMENT CERTIFICATION AND DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	10/29/2020
Proposed Penalty:	\$13,494.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: JBS Foods, Inc., dba Swift Beef Company

Inspection Site: 800 N. 8TH AVENUE, Greeley, CO 80631

Citation 2 Item 1 Type of Violation: **Other-than-Serious**

29 CFR 1904.35(b)(iii): A copy of the OSHA 300 Log required in 1904.29(a) was not provided upon request to an employee, former employee, personal representative, or authorized employee representative by the end of the next business day:

- (a) **JBS Foods, Inc. dba Swift Beef Company at 800 N 8th Ave in Greeley, CO:** On or about May 19, 2020, a copy of the OSHA 300 Log required in 1904.29(a) was not provided upon request to an employee, former employee, personal representative, or authorized employee representative by the end of the next business day. An employee representative from the UFCW Local 7 requested a copy of the OSHA 300 Log(s) on May 19, 2020. The employer did not provide a copy of the OSHA 300 Log(s) to an authorized employee representative until June 22, 2020.

Abatement Note: Abatement certification is required for this item (see enclosed "Certification of Corrective Action Worksheet").

Date By Which Violation Must be Abated:

10/29/2020

Proposed Penalty:

\$2,121.00

Amanda Kupper

Amanda Kupper
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
1391 Speer Blvd, Suite 210
Denver, CO 80204



INVOICE / DEBT COLLECTION NOTICE

Company Name: JBS Foods, Inc., dba Swift Beef Company
Inspection Site: 800 N. 8TH AVENUE, Greeley, CO 80631
Issuance Date: 09/11/2020

Summary of Penalties for Inspection Number: 1475131

Citation 1, Serious	\$13,494.00
Citation 2, Other-than-Serious	\$2,121.00
TOTAL PROPOSED PENALTIES	\$15,615.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will cash the check or money order as if these restrictions or conditions do not exist.

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed

account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is two percent (2%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



Amanda Kupper

Area Director

September 11, 2020

Date