



COVID-19: Considerations for Agricultural Businesses

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Speaker



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Today's Agenda

1. Introduction
2. Workers' Compensation
3. Cal/OSHA Recording and Reporting
4. Required Plans and Protocols
5. Leave Benefits: Sick Leave/FMLA
6. Specific Employee Situations
7. Q&A

Workers' Compensation

Workers' Compensation

- Workplace Outbreak – Can Lead to Workers' Compensation Claims
- Risk of a Serious and Willful Claim
 - Not insurable
 - Another reason to follow all safety guidance!

Cal/OSHA

Ca/OSHA

In general, you must record on your Log 300, work-related:

- Death
- Days away from work
- Restrictions on work
- Loss of consciousness
- Medical treatment beyond first aid
- Significant injury or illness

Days away for quarantine (as opposed to isolation) are not recordable “days away from work.”

Ca/OSHA

What is work-related?

- An event or exposure in the work environment caused or contributed to the resulting condition, or significantly aggravated a pre-existing injury or illness.
- Work-related exposure could include sharing space or items with infected people.
- If the cause is uncertain, employers must evaluate the likelihood that the infection occurred at work –
 - What controls were in place to avoid infection?
 - What contact with co-workers and the public?
 - Exposure to infected co-workers?

Ca/OSHA

You must report to Cal/OSHA any serious illness that:

- Results in death or hospitalization, and
- Was contracted in connection with employment

If an employee becomes sick at work and is admitted to the hospital, you must report it, even if the illness may not have been contracted at work.

Likewise, if there is a likelihood that the illness was contracted at work but the employee first shows symptoms outside of work, you must report it.

Required Plans and Protocols

Injury and Illness Prevention Plan (IIPP)

- All employers should update their IIPP to include infection prevention measures directed to COVID-19

*(Cal/OSHA : General Workforce and Agricultural Guidance;
Cal. Dept. of Public Health - Cal. Dept. of Food & Agriculture -
Cal/OSHA: COVID-19 Industry Guidance – Agriculture &
Livestock)*

- Perform an assessment of COVID-19 hazards and determine steps to prevent infection.

IIPP

- Social Distancing
 - Stagger meal and rest break times;
 - Adjust location of work stations and line speeds to allow six feet of distance between workers;
 - Limit crew size and add shifts;
 - Group workers in “pods;”
 - Make physical distancing possible in break areas.
- Face Coverings
 - Provide or pay for face coverings;
 - Incorporate Face Covering Guidance and plan for exemptions.

IIPP

- Sanitation
 - Regular cleaning and disinfecting with EPA-approved products;
 - Frequent hand-washing is much more effective than sanitizer, so handwashing stations are important;
 - Place hand-washing stations near restrooms and near work areas;
 - NOTE: For piece-rate workers, hand-washing is compensable (paid), non-productive time.

IIPP

- Employee Training – in the language understandable to employees
 - The importance of staying home if feeling sick;
 - Sick leave and other benefits;
 - Know the symptoms of COVID-19;
 - Symptom checks daily;
 - Sanitation practices;
 - Distancing protocols;
 - Safety when using cleaning/disinfecting products.

IIPP

- Engineering Controls
 - Use plexiglass barriers;
 - Create directional walkways;
 - Increase the quantity of outside air;
 - Consider high-efficiency air cleaners.

Plus Many More Items!

Good news – Complying with the new requirements for updating your IIPP will help provide a defense against a serious and willful workers' compensation claim.

Employees in Shared Housing

If you provide shared housing to your employees:

- Have employees who live together also travel and work together in “pods;”
- Be proactive in assisting in social distancing in shared housing;
- Provide training on extra precautions for use and storage of cleaning/disinfection products around children.

Heat Illness Prevention

Just a reminder – since we’re here together:

You are required to have a Heat Illness Prevention Program –

- Drinking water;
- Shade rest breaks;
- Training employees about heat illness prevention.

See Cal/OSHA website on Heat Illness.

Outbreak Management Plan

California Dept. of Public Health Guidelines

Important Pre-Outbreak Steps:

- Designate a workplace infection prevention coordinator;
- Instruct employees to stay home if sick or awaiting test results;
- Develop a tracking mechanism for suspected or confirmed cases;
- Record the contact information for the local health department in each county where you operate and where your employees live.

<http://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Workplace-Outbreak-Employer-Guidance.aspx>

Yuba-Sutter County Protocol

- The joint county order requires all businesses to prepare and post a COVID-19 Operations Protocol.
- Many of the topics in the IIPP are also required for the Operations Protocol.

Leave Benefits

California Sick Leave

- Three days or 24 hours (whichever is greater);
- May be used for preventive care, which includes quarantine;
- Employees being reinstated within one year are entitled to have their former sick leave balance back.

Federal Sick Leave

- Available to an employee who cannot work because the employee:
 - Is symptomatic and seeking medical advice;
 - Has been advised to self-quarantine;
 - Is subject to a government isolation order;
 - Is caring for a person in one of the above categories;
or
 - Is caring for a child whose child care or school is closed.

Federal Sick Leave

- Full-time employees: 80 hours.
- Part-time employees: *pro rata* basis.
- Paid at regular rate of pay or 2/3 of that.
 - Careful if you have variable schedule employees.
- Lasts until the end of the year.
- Employers with under 50 employees may be exempt but only for employees requesting leave for child care purposes.

Expanded FMLA Leave

- Provides ten weeks' paid FMLA leave to employees taking leave to care for a child whose child care or school is closed.
- The first two weeks are unpaid.
- Employers with under 50 employees may be exempt.

Notice Requirements

- Employers must post and/or transmit to employees a required notice of their federal sick leave and expanded FMLA benefits.
- The Department of Labor created a form of the notice.

What should I do if my employee is...

Sick?

- Send your employee home immediately.
- Provide all available leave (consider FMLA and ADA).
- Notify other affected employees
 - Without violating the privacy of the sick employee. In other words, don't tell who is sick.
 - See DFEH guidance for suggested language.
- Comply with Cal/OSHA recording and reporting requirements.
- Close, clean, and disinfect areas the sick employee used.
- Follow CDC guidelines for sick employees' return.
- Notify appropriate public health authorities.

Exposed to COVID-19?

- Send the employee home immediately.
- Instruct employee to follow the CDC guidelines, currently requiring a 14-day self-quarantine.
- Allow the employee to return after the 14 days, assuming no symptoms develop, or after getting a return-to-work note from a health care provider.

Vulnerable?

- If your employee is in a vulnerable population and does not want to come in to the job site:
 - Allow remote work, if possible.
 - Evaluate availability of leave under FMLA or as a reasonable accommodation under the ADA.
- Do not exclude employees from returning to the job site solely on the basis of their age or underlying health condition.
 - You may exclude only if their disability poses a “direct threat” to themselves that cannot be eliminated or reduced by a reasonable accommodation.

Frightened?

- Permit remote work, if possible.
- Evaluate all protected leave options, paid or unpaid.
- Ensure you have implemented all health and safety measures. Employees have the right to refuse hazardous work in certain circumstances.

Regularly Read Current Guidance From:

- Centers for Disease Control – General Guidance (<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>)
- Centers for Disease Control – Agriculture Employers (<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-agricultural-workers.html>)
- California Dept. of Public Health – COVID-19 Guidance (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Guidance.aspx>)
- California Dept. of Food & Agriculture – COVID-19 Resources (<https://www.cdffa.ca.gov/coronavirus/>)
- County Health Department – Protocols for Business (https://www.yuba.org/coronavirus/Business_toolkit.php)
- Cal/OSHA Guidance on COVID-19 (<https://www.dir.ca.gov/dosh/coronavirus/Health-Care-General-Industry.html>)

Other Important Resources

Several government agencies have important information on COVID-19 related matters. Check regularly for updates:

- Department of Fair Employment & Housing (DFEH) (<https://www.dfeh.ca.gov/covid-19-resources-and-guidance/>)
- Equal Employment Opportunity Commission (EEOC) (<https://www.eeoc.gov/coronavirus>)
- Governor's Office (<https://covid19.ca.gov/>)
- Department of Industrial Relations (DIR) ([https://www.dir.ca.gov/dlse/Coronavirus-\(COVID-19\)-Information.htm](https://www.dir.ca.gov/dlse/Coronavirus-(COVID-19)-Information.htm))
- Employment Development Department (EDD) (https://edd.ca.gov/about_edd/coronavirus-2019.htm)

Our COVID-19 Resources Portal

CORONAVIRUS

COVID-19



www.murphyaustin.com/news-events/covid-19-resources

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Thank You



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