

COVID-19 UPDATE



FRONTLINE DOCUMENTARY: "COVID'S HIDDEN TOLL" TO AIR TONIGHT ON PBS

The PBS documentary series Frontline will air a program tonight, Tuesday, July 21, titled “COVID’s Hidden Toll,” that purports to show conditions at California farms and meat-packing plants.

The trailer for the program may be viewed

here: <https://www.pbs.org/wgbh/frontline/film/covids-hidden-toll/>

The 30-second trailer on the website includes several clips of broccoli harvest (with workers wearing surgical masks), plus clips of a man driving a forklift in a warehouse and of what appears to be the outside of a meat-packing plant. The soundtrack includes several soundbites with unidentified people; the closing clip is of a man saying, “It doesn’t feel like we’re essential; it feels like we’re slaves.”

The brief narrative on the website reads: “FRONTLINE examines how the COVID crisis has hit vulnerable immigrants and undocumented workers. The documentary follows the coronavirus pandemic’s invisible victims, including crucial farm and meat-packing workers who lack protections and have been getting sick.”

As you can gather from the material above, we would expect this to be a mostly negative depiction of the care California farm and agricultural employers have given to employee health and safety.

TITLE VI RELATED TO WORKPLACE COVID-19 POLICIES

Food Chain Workers Alliance v. Tyson Foods, Inc. On July 8, 2020, Food Chain Workers Alliance (“FCWA”) and other worker’s rights entities filed a complaint with the United States Department of Agriculture (“USDA”) under Title VI of the Civil Rights Act of 1964 against Tyson, JBS USA, Inc., and other meat processing facilities.

Title VI specifically protects workers from disparate impacts based on race and is invoked when a company receives federal funding from federal agencies such as USDA. The majority of the 32,151 COVID-infected individuals working in the processing facilities are African American or Hispanic. FCWA claims these processing facilities failed to implement Center for Disease Control (“CDC”) recommended policies to mitigate their minority workers’ exposure to COVID-19. Alternatives suggested by FCWA to mitigate COVID-19 associated risks include: 6-foot distancing, barriers between workers, slowing processing rates and increasing available shifts, requiring face coverings, and conducting health screenings before the start of each shift.

The Commission will monitor the status of this case and USDA’s response. We continue to recommend that facilities implement policies and procedures in compliance with CDC and Cal/OSHA COVID-19 guidelines. If you have any questions, please do not hesitate to contact our office.

*Information courtesy of Kahn, Soares, and Conway, LLP.

HIGH HEAT ADVISORY REMINDER

As temperatures continue to remain elevated in the Central Valley, please continue to follow a water replenishment program and also ensure employees have access to shade. If you are unable to adjust the hours of operation for your employees to avoid working when the temperature reaches 95 degrees, then make sure you follow your High Heat Procedures. These procedures should include:

- Tail gate meetings before the commencement of work to review high heat procedures, encourage employees to drink plenty of water, and remind employees to take a cool down rest when needed.
- Observing employees for alertness and signs or symptoms of heat illness either by the crew leader and/or having a buddy system. For tractor drivers communicate with by phone or other communication device.
- Reminding employees throughout the shift to drink plenty of water.
- Ensure effective communication by voice, observation, or electronic means is maintained so employees can contact a supervisor when necessary.
- A minimum ten minute cool down rest period every two hours. If the timing of the cool down rest coincides with a meal period or their regular rest period, then employees don’t need to take a separate cool down break.

Please be safe and feel free to reach out to the Commission with any questions regarding high heat procedures.