COVID-19 Webinar Series

Relief Program Updates

National Sea Grant Law Center
Informational Webinar
September 2, 2020
Webinar Overview

• Introduction & Background
• General Updates
• Interesting Story of the Week
• COVID-19 Executive Order Updates
• SBA Update
• Work Safety Update (FDA-OSHA Checklist)
• CFAP Update
• COVID-19 Impact on Plastic Bans
• Q&A
Who We Are

- One of 34 Sea Grant Programs
- Based at the University of Mississippi School of Law
- Established to provide non-advocacy legal research, outreach, and education services to Sea Grant network.

http://nsglc.olemiss.edu/covid19
NSGLC Updates

• Don’t forget to follow us on Twitter and Facebook!
  • @SGLawCenter // facebook.com/nsglc

• New information on COVID-19 Resources webpage:
  • Recording and slides from August 19 Webinar

• New blog posts:
  • Mandates Remain in Effect for Charter Fishing Services and Vessels
  • Consolidated MDL for COVID-19 Lawsuits
Interesting Story of the Week

CASES, DATA & SURVEILLANCE

National Wastewater Surveillance System (NWSS)
A new public health tool to understand COVID-19 spread in a community

University of Arizona Stops a Covid-19 Outbreak by Following the Feces
After wastewater monitoring detected the virus in a dorm’s sewage, the school discovered and quarantined two asymptomatic infections
Update re: Unemployment Insurance E.O.

**Background Refresher:**

- Provided for an extension of the federal unemployment insurance (UI) benefits that expired on July 31.

- The order directs $44 billion in FEMA Disaster Relief Funds be converted to provide for $300 in Federal UI benefits.
  - This $300 is meant to unlock an additional $100 in state matching funds, but many states do not have the budget to contribute.

- State UI filers who would receive less than $100 in benefits are ineligible for the $300 federal UI benefit.
State Action as of 8/31

- Total of 48 states moving forward or already approved.
- Most states are not intending to match the $300 benefit.
- Earliest payments are likely to start is late September.
Update re: Payroll Tax E.O.

Background Refresher:

- August 8, 2020 - President Trump signed executive memo directing Treasury Department to defer certain payroll tax obligations.
  - Only employees with taxable wages less than $4,000 during a biweekly pay period are eligible.
  - As of right now, employees deferring obligations from September 1, 2020 – December 31, 2020, will be expected to pay the deferred amount out of their paychecks in first quarter of 2021.
Notice 2020-65

• On August 28, 2020, Treasury and IRS issued Notice 2020-65 with guidance for employers on how to implement this tax deferral.

• IRS has released an updated Form 941 in draft form to report deferred amount, but additional form instructions haven’t been published yet.

• Payroll tax deferral is voluntary and employers have discretion (even on an employee-by-employee basis) on whether to stop withholding starting September 1, 2020.
Background Refresher:

- Among other things, ordered the Secretary of Health and Human Services and the Director of CDC to consider whether any measures temporarily halting residential evictions of any tenants for failure to pay rent are reasonably necessary to prevent the further spread of COVID-19 from state to state.
CDC Eviction Moratorium

- Bars evictions based on inability to pay rent through the end of the year using CDC quarantine authority.
- Applies to *all* renters who will make less than $99,000 in 2020 ($198k filing jointly) or meet other income criteria.
  - CARES Act moratorium only applied to renters in apartment complexes or single-family homes financed with federally backed mortgages.
- Renters must attest to:
  - Substantial loss of household income;
  - Inability to pay full rent and have used best efforts to obtain government assistance for rent or housing;
  - Used best efforts to pay partial rent; and
  - Eviction would likely lead to homelessness or living with others in close quarters.
What isn’t covered by the moratorium?

- Can still be evicted for other reasons.

- Does not apply in any area with as strong or stronger moratorium or American Samoa (no COVID-19 cases).

- Renters will still owe unpaid rent at the end of the moratorium.
PPP Loan Forgiveness - New Rule on Non-Payroll Costs

- SBA has issued a new Rule covering the forgiveness of certain rental and mortgage interest payments.

- Four situations:
  - Borrower has a tenant;
  - Borrower has a subtenant;
  - Shared spaces; and
  - Home offices.
Ex. 1: Borrower has a tenant

- Borrower has a mortgage on an office building it operates out of, and it leases out a portion of the space to other businesses.

  - The portion of mortgage interest that is eligible for loan forgiveness is limited to the percent share of the fair market value (FMV) of the space that is not leased out to other businesses.

  - If the leased space represents 25% of the FMV of the office building, borrower may only claim forgiveness on 75% of the mortgage interest.
Ex. 2: Borrower has a subtenant

- Borrower rents an office building for $10,000 per month and subleases out a portion of the space to other businesses for $2,500 per month.

- Only $7,500 per month is eligible for loan forgiveness.
Ex. 3: Borrower shares a rental space

- Borrower shares a rented space with another business.
- Borrower must prorate rent and utility payments in the same manner as on the borrower’s 2019 tax filings, or if a new business, the borrower’s expected 2020 tax filings.
Ex. 4: Borrower has a home office

- Borrower works out of his or her home.
- Borrower may include only the share of covered expenses that were deductible on the borrower’s 2019 tax filings, or if a new business, the borrower’s expected 2020 tax filings.
OSHA & FDA Checklist for Food Operations


- Checklist is not a standard or regulation, and it creates no new legal obligations.

- Simply describes existing recommendations as well as mandatory safety and health standards.
Purpose: The Food and Drug Administration (FDA) and the Occupational Safety and Health Administration (OSHA) are providing this checklist for FDA-regulated human and animal food operations to use when assessing operations during the COVID-19 pandemic, especially when restarting operations after a shut down or when reassessing operations because of changes due to the COVID-19 public health emergency caused by the virus SARS-CoV-2. Some or all of this checklist may be useful to persons growing, harvesting, packing, manufacturing, processing, or holding human and animal food regulated by FDA. This includes produce, seafood, milk, eggs, grains, game meat, and other raw materials or ingredients, as well as their resulting human or animal food products.
OSHA & FDA Checklist for Food Operations

- Employee Health and Social Distancing Checklist
  - Facilities
  - Employee Exposure Investigation & Testing
  - Work Environment Configuration

- Food Safety Checklist
  - Food Safety or HACCP Plan
  - Personnel
  - Suppliers and Incoming Ingredients
  - Current Good Manufacturing Practice Requirements
### Employee Health

Ensuring employees remain healthy is key to maintaining continuity of operations and, under the Occupational Safety and Health Act of 1970, employers must provide a safe and healthful working environment free of serious recognized safety and health hazards. If you have an on-site occupational health (OH) service or OH consultant, please seek their advice for managing your workforce health during the COVID-19 pandemic. Any employee who has COVID-19, regardless of whether the employee has signs and/or symptoms, should be isolated away from the facility, per CDC and OSHA recommendations [9]. Employers should consider the following questions when assessing operations during the COVID-19 pandemic.

#### General:

- Have you developed a COVID-19 assessment and control plan, as recommended by CDC and OSHA [9]?
- Have you identified a workplace coordinator to coordinate COVID-19 employee health and social distancing activities, as recommended for such a plan?
- Have you provided employees a clear point of contact (e.g., the workplace COVID-19 coordinator) to [1] report symptoms or illness [11] and [2] consult with when an employee who has been sick with COVID-19 symptoms meets the CDC criteria to end a home isolation period [12]?

- Have you established practices to assess employee health and minimize the spread of COVID-19 in accordance with recommendations from federal agencies such as CDC, FDA, OSHA, and any applicable state, local, tribal and/or territorial authorities?

- Do these practices cover:
  - assessing employee health (e.g., assessing symptoms) prior to and/or upon arrival to work;
  - what to do when an employee is symptomatic (has symptoms of COVID-19) or has tested positive for the virus that causes COVID-19;
  - what to do when an employee has been exposed to co-workers or other people (e.g., family or friends) who have symptoms consistent with COVID-19 or who have tested positive for the virus that causes COVID-19;
  - practices to protect workers at increased risk of severe illness, such as older adults and

### Work Space Configuration Examples

The following diagram, based on one developed by OSHA [9], is one example of a way to align workstations [e.g., manufacturing/processing lines, sorting operations, packing lines] to include social distancing practices. You may have to make adjustments based on your particular establishment/operation layout.

<table>
<thead>
<tr>
<th>How to align workstations, if feasible</th>
<th>Image</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Not Protective</strong>: Workers are within six feet of one another [without a partition], including at side-by-side and/or facing workstations.</td>
<td><img src="image" alt="Not Protective Diagram" /></td>
</tr>
<tr>
<td><strong>Good</strong>: Workers are spaced at least six feet apart, not facing one another. Another setup may be used to achieve similar distancing between workers.</td>
<td><img src="image" alt="Good Diagram" /></td>
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<tr>
<td><strong>Good</strong>: Physical barriers, such as partitions, separate workers from each other.</td>
<td><img src="image" alt="Good Diagram" /></td>
</tr>
<tr>
<td><strong>Good</strong>: Physical barriers, such as partitions, separate workers from each other, including where workers need to perform tasks in tandem across from one another.</td>
<td><img src="image" alt="Good Diagram" /></td>
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**Food Safety or HACCP Plan**

For operations required to have a food safety plan under 21 CFR Part 117 or Part 507 [Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls] or a HACCP plan (i.e., 21 CFR Part 123 [Seafood] and 21 CFR Part 120 [Juice]), your plan is key to ensuring you are producing and handling food safely. Some FDA regulations require firms to evaluate whether changes have an impact on the safety of the food they produce. For example, 21 CFR §§117.170(b)(1) and 507.50(b)(1) require a reanalysis of the food safety plan as a whole, or the applicable portion of the food safety plan, whenever a significant change in the activities conducted at a facility creates a reasonable potential for a new hazard or creates a significant increase in a previously identified hazard; 21 CFR §123.8(a)(1) requires a reassessment of the adequacy of the HACCP plan whenever any changes occur that could affect the hazard analysis or alter the HACCP plan in any way; and 21 CFR §120.11(b) requires validation that the HACCP plan is adequate to control food hazards that are reasonably likely to occur whenever any changes in the process occur that could affect the hazard analysis or alter the HACCP plan in any way.

| □ | Have there been changes to your ingredient suppliers or ingredients that may require you to consider new hazards, or reconsider your evaluation of your hazards, and whether you need to make changes as a result? |
| □ | Have there been any changes to the food products you make and/or your customers that would require you to consider whether there are new hazards, or reconsider your evaluation of your hazards, and whether you need to make changes as a result? |
| □ | Have there been changes to your operations or processes that require changes to your procedures or the timing of your procedures? For example, do changes to the frequency of shifts or number of personnel impact control measures, monitoring, or verification procedures? |
CFAP Updates

- This is our last webinar before the **September 11 deadline**!

- **Status update**: As of 8/24, USDA has spent $9 billion of the $16 billion that CARES Act earmarked for CFAP.

- **Future funding**
  - $20 billion reauthorization for CFAP in Senate aid package that failed last month
  - Sec. Perdue announced that he will replenish funds with $14 billion that CARES earmarked for Commodity Credit Corporation for after July 1 if necessary.

- **Local and Regional Farmer and Market Support Act (Rep. Alma Adams – NC)**
  - Targets farmers that CFAP “missed”: small-scale, organic, and direct-to-consumer models.
  - Would base payments on farm’s historic revenue rather than losses incurred 1/15/20 - 4/15/20.
  - Includes funds to help farmers pay for public health installations and targeted assistance to farmers and farming communities of color.
  - No specific mention of aquaculture.
  - Unlikely to pass given gridlock over Congress’s higher priorities.
COVID-19 Impact on Plastic Bans

State and Local Governments Ban Plastic Bags or Charge Fees
COVID-19 Impact on Plastic Bans

- NIH, CDC studies finding COVID-19 can remain on surfaces for 3 days.

  Leads to:
  - Ban on reusable bags.
  - Delayed implementation of bag bans.
  - Temporary lift on bag bans and fees.
Questions?

Please type your question into the Chat window.

Contact Us

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