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To: Bozzuto, Robert F - OPA
CC: OScannlain, Kate S - SOL; Sweatt, Loren E. - OSHA; Mondl, Rachel E - OSEC
Sent: 4/28/2020 4:41:37 PM
Subject: statement -- prep for release but HOLD
Attachments: Statement on Meatpacking - 2020.04.28 1621 clean.docx

Bob:

Attached is the statement I discussed with you earlier. Please prepare it so that it is in the correct format and ready to distribute, but **HOLD** it until it is approved for release. We cannot release until the White House has announced that the President has signed the executive order invoking the DPA for protein processing.

Thanks!

Andrew

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Statement of Enforcement Policy by Solicitor of Labor Kate O’Scannlain and Principal Deputy Assistant Secretary for OSHA Loren Sweatt regarding Meat and Poultry Processing Facilities

The Occupational Safety and Health Administration (OSHA) and the Centers for Disease Control and Prevention (CDC) recently issued joint interim guidance for meat and poultry processing workers and employers (Joint Meat Processing Guidance) in light of multiple outbreaks of COVID-19 among meat, pork, and poultry processing facility workers. It is vitally important that employers in this critical industry adhere to the Joint Meat Processing Guidance to protect their workers from the risk of COVID-19 infection. Moreover, the security of America’s food supply relies on meat, pork, and poultry processing facilities continuing to operate, which they cannot do without a healthy workforce. In light of President Trump’s invocation of the Defense Production Act (DPA) with respect to protein processing, OSHA and the Solicitor of Labor issue this statement to clarify the effect of the Joint Meat Processing Guidance in this circumstance.

OSHA has issued enforcement guidance indicating the agency will use enforcement discretion for employers adhering to appropriate guidance, including the Joint Meat Processing Guidance. As stated in the Joint Meat Processing Guidance, employers should conduct worksite assessments to identify COVID-19 risks and prevention strategies and then implement them. It is important that employers seek to adhere to this Guidance. To the extent employers determine that certain measures are not feasible in the context of specific plants and circumstances, they are encouraged to document why that is the case. In the event of an investigation, OSHA will take into account good faith attempts to follow the Joint Meat Processing Guidance. OSHA does not anticipate citing employers that adhere to the Joint Meat Processing Guidance. Additionally, because of the President’s invocation of the DPA, no part of the Joint Meat Processing Guidance should be construed to indicate that state and local authorities may direct a meat and poultry processing facility to close, to remain closed, or to operate in accordance with procedures other than those provided for in this Guidance

In addition, courts often consider compliance with OSHA standards and guidance as evidence in an employer’s favor in litigation. Where a meat, pork, or poultry processing employer operating pursuant to the President’s invocation of the DPA has demonstrated good faith attempts to comply with the Joint Meat Processing Guidance and is sued for alleged workplace exposures, the Department of Labor will consider a request to participate in that litigation in support of the employer’s compliance program. Likewise, the Department of Labor will consider similar

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requests by workers if their employer has not taken steps in good faith to follow the Joint Meat Processing Guidance.

OSHA encourages employers to contact OSHA for compliance assistance or the OSHA On-Site Consultation Program for assistance in applying the joint guidance to their worksites. Employers also may contact CDC for assistance.