

Policies Influencing Work and Health Disparities: Gaps and Opportunities

**Pat McGovern, PhD, MPH, Professor
School of Public Health, University of Minnesota
September 29, 2020**



UNIVERSITY OF MINNESOTA

Driven to Discover®

COVID 19 & Essential Workers

- **Critical to infrastructure**
- **Support crucial supply chains and enable functions for critical infrastructure**



Krebs (2020)

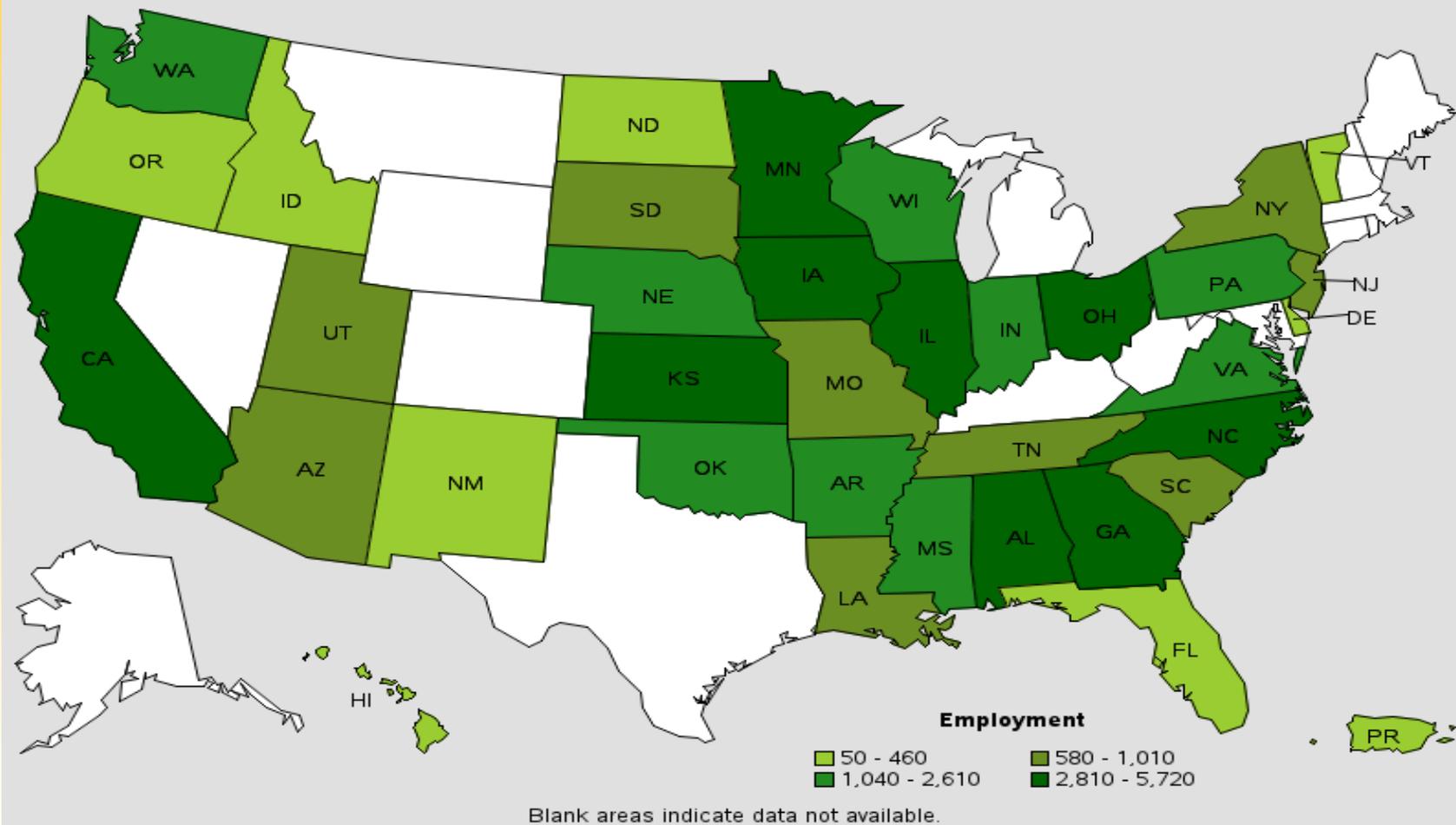


UNIVERSITY OF MINNESOTA
Driven to Discover®

Animal Slaughtering and Processing Industry



Employment of slaughterers and meat packers, by state, May 2018



Update: COVID-19 Among Workers in Meat and Poultry Processing Facilities — United States, April–May 2020

Michelle A. Waltenburg, DVM^{1,2}; Tristan Victoroff, MPH¹; Charles E. Rose, PhD¹; Marilee Butterfield³; Rachel H. Jervis, MPH⁴; Kristen M. Fedak, PhD⁴; Julie A. Gabel, DVM⁵; Amanda Feldpausch, MPH⁵; Eileen M. Dunne, PhD^{1,2,6}; Connie Austin, DVM⁷; Farah S. Ahmed, PhD⁸; Sheri Tubach, MPH⁸; Charles Rhea, MPH⁹; Anna Krueger, MS¹⁰; David A. Crum, DVM¹¹; Johanna Vostok, MPH¹²; Michael J. Moore, MS¹²; George Turabelidze, MD¹³; Derry Stover, MPH¹⁴; Matthew Donahue, MD^{1,2,14}; Karen Edge, MPH¹⁵; Bernadette Gutierrez¹⁵; Kelly E. Kline, MPH¹⁶; Nichole Martz¹⁷; James C. Rajotte, MS¹⁸; Ernest Julian, PhD¹⁸; Abdoulaye Diedhiou, MD¹⁹; Rachel Radcliffe, DVM¹⁹; Joshua L. Clayton, PhD²⁰; Dustin Ortbahn, MPH²⁰; Jason Cummins, MPH²¹; Bree Barbeau, MPH²²; Julia Murphy, DVM²³; Brandy Darby, DVM²³; Nicholas R. Graff, MPH²⁴; Tia K. H. Dostal, MPH²⁴; Ian W. Pray, PhD^{1,2,25}; Courtney Tillman, MPH²⁶; Michelle M. Ditttrich, MPH¹; Gail Burns-Grant¹; Sooji Lee, MSPH¹; Alisa Spieckerman, MPH¹; Kashif Iqbal, MPH¹; Sean M. Griffing, PhD¹; Alicia Lawson, MPH¹; Hugh M. Mainzer, DVM¹; Andreea E. Bealle, MPH¹; Erika Edding¹; Kathryn E. Arnold, MD¹; Tomas Rodriguez, MA¹; Sarah Merkle, MPH¹; Kristen Petrone, MD^{1,2}; Karen Schlanger, PhD¹; Kristin LaBar, MPH¹; Kate Hendricks, MD¹; Arielle Lasry, PhD¹; Vikram Krishnasamy, MD¹; Henry T. Walke, MD¹; Dale A. Rose, PhD¹; Margaret A. Honein, PhD¹; COVID-19 Response Team

At least 17,358 cases and 91 COVID-19 related deaths have occurred among U.S. meat and poultry processing workers from 23 states through May 31, 2020.



Meat & Poultry Processing Industry

Among 14 states reporting the total number of workers in affected meat and poultry processing facilities, COVID-19 was diagnosed in 9.1% of 112,616 workers with a range of 3.1% to 24.5% per facility.

Waltenburg (2020)

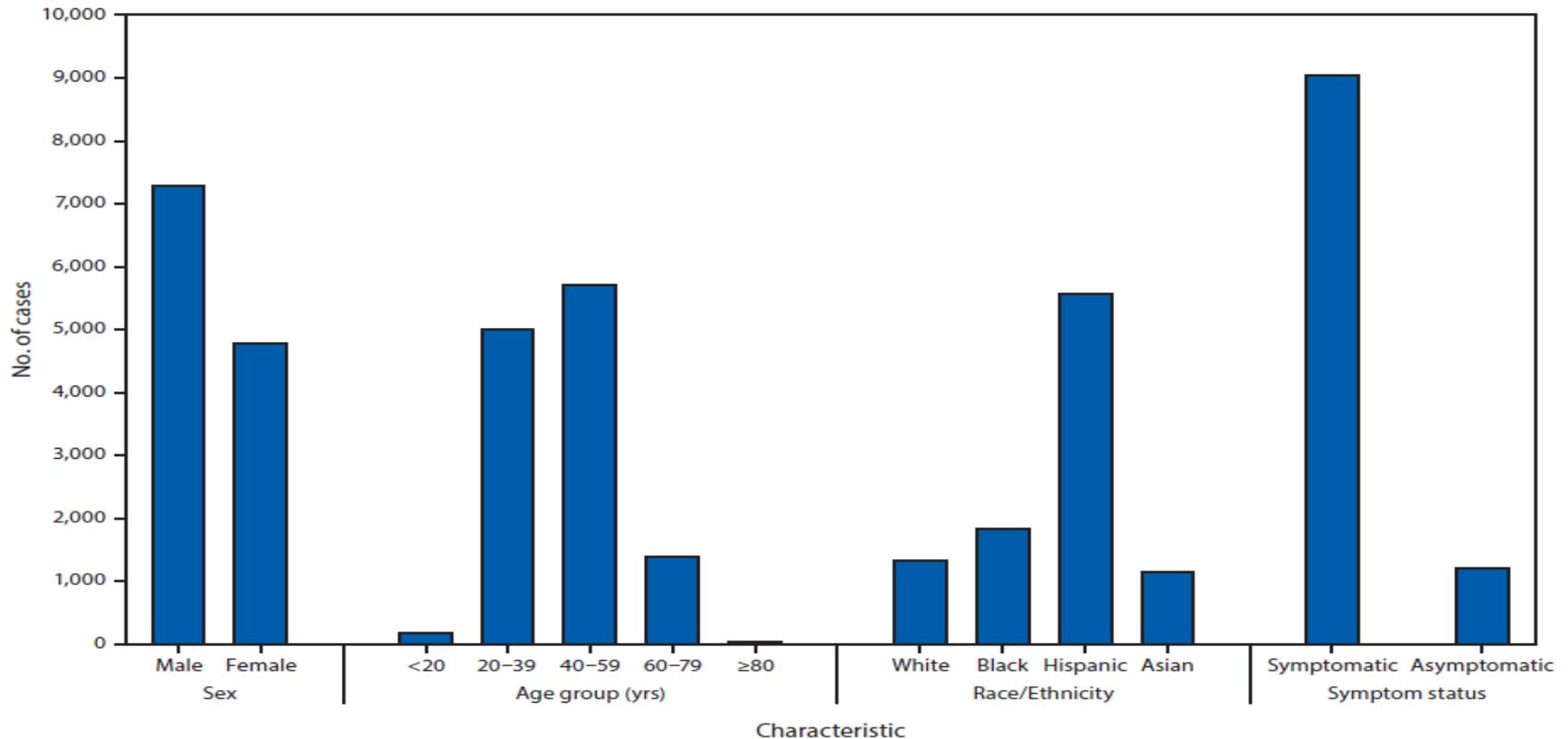


UNIVERSITY OF MINNESOTA
Driven to Discover®

Worker Characteristics

Morbidity and Mortality Weekly Report

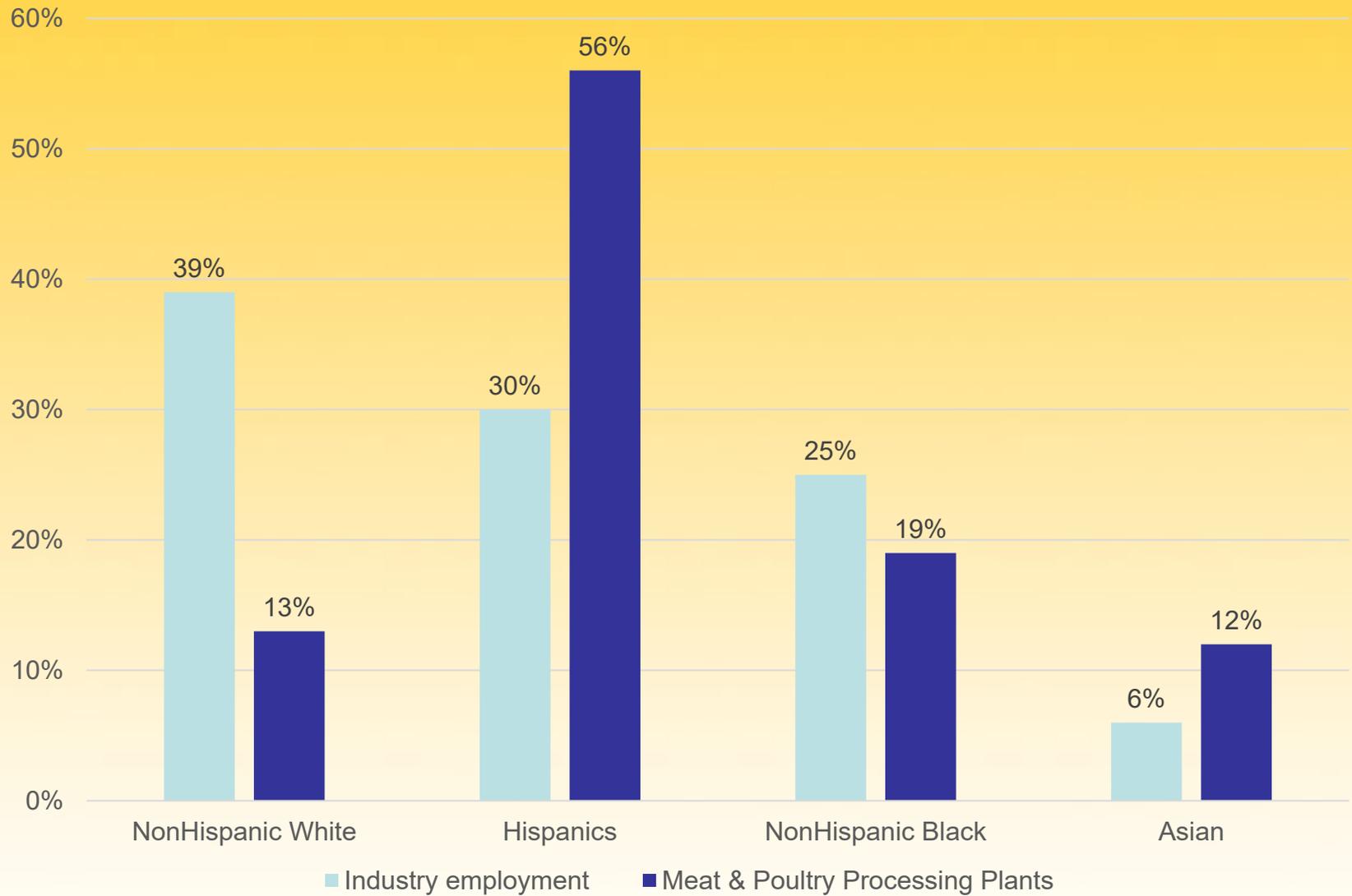
FIGURE. Characteristics*[†] of reported laboratory-confirmed COVID-19 cases among workers in meat and poultry processing facilities — 21 states, April–May 2020[§]



Waltenburg (2020)



Suggested Disparities by Ethnicity and Race



Exposure Risk Factors

- **Companies failed to implement social distancing recommendations**
- **Companies did not provide protective masks and face shields to workers**
- **Workers worked closely together for 8-12 hr. shifts**
- **They breathe heavily while doing physically intense, high-speed labor which makes it hard to wear face coverings**
- **Plants are cold which may affect how the virus survives**
- **Workers often lack access to paid sick leave**

Krisberg (2020) & Waltenburg (2020)



Employers' Response to the Outbreaks

TABLE 2. Interventions and prevention efforts implemented by facilities in response to COVID-19 among workers in 111 meat and poultry processing facilities* —14 states, April–May 2020[†]

Intervention/Prevention effort	COVID-19-affected facilities, no. (% [§])		
	Implemented intervention	Did not implement intervention	Intervention status unknown
Worker screening on entry	89 (80)	5 (5)	17 (15)
Required universal face covering	86 (77)	5 (5)	20 (18)
Added hand hygiene stations	72 (65)	8 (7)	31 (28)
Educated employees on community spread	70 (63)	13 (12)	28 (25)
Installed physical barriers between workers	69 (62)	17 (15)	25 (23)
Staggered shifts	57 (51)	17 (15)	37 (33)
Offered SARS-CoV-2 testing to employees [¶]	41 (37)	35 (32)	35 (32)
Removed financial incentives (e.g., attendance bonuses)	33 (30)	20 (18)	58 (52)
Closed facility temporarily	24 (22)	69 (62)	18 (16)
Reduced rate of animal processing	23 (21)	14 (12)	74 (67)
Decreased crowding of transportation to worksite	17 (15)	10 (9)	84 (76)

Abbreviation: COVID-19 = coronavirus disease 2019.

* Affected facilities defined as those having one or more laboratory-confirmed COVID-19 cases among workers.

[†] Based on data collected through May 31, 2020.

[§] Because of rounding, row percentages might not equal 100%.

[¶] Testing strategies varied by facility.

Waltenburg (2020)



Limitations

- **Results may not be representative of all US meat and poultry processing facilities and workers**
- **Results may underestimate the number of affected facilities and cases among workers and their symptom status**
- **Information on interventions and prevention efforts were only available for a subset of facilities and may not be generalizable to all facilities**

Waltenburg (2020)



UNIVERSITY OF MINNESOTA

Driven to Discover®

Selected Laws and Policies

- **Occupational Safety & Health Act**
- **Sick Leave and Family and Medical Leave**
- **Families First Corona Virus Response Act**
- **Workers Compensation Insurance**
- **Americans with Disabilities Act**



Occupational Health and Safety Act

OSHA standards that may apply to Covid-19

- Recording & reporting occupational injuries & illnesses
- Personal Protective Equipment (PPE)
- Eye & face protection
- Respiratory protection
- Sanitation
- Specification of accident prevention signs & tags
- Access to employee exposure & medical records
- General Duty Clause: requires employers to furnish each worker, *"employment & a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm."*

(Edens, 2020 & Occupational Safety and Health Act of 1970)



UNIVERSITY OF MINNESOTA

Driven to Discover®

Policy Gap – OSH Act ?

- **March 2020: The AFL-CIO petitioned OSHA to issue an Emergency Temporary Standard (ETS) for COVID-19**
- **April 2020: OSHA denied the petition BY FAILING TO RESPOND TO IT**
- **June 2020: the AFL-CIO filed an emergency petition with the UNITED STATES COURT OF APPEALS FOR THE DC CIRCUIT requesting they order OSHA to issue a temporary emergency standard for COVID-19 that would require employers to develop COVID-19 safety plans; the APPELLATE court ruled against the union.**

AFL-CIO (May 2020 & June 2020)



UNIVERSITY OF MINNESOTA

Driven to Discover®

Paid Sick Leave and Family Medical Leave

- **The industry has had a history of not providing paid sick leave**
- **If workers miss work time due to illness they are given points and too many points have led to termination**
- **If workers need time off they take unpaid family and medical leave**

Shanker & Mulvaney (2020)



Families First Coronavirus Response Act

- **Requires covered employers to provide employees with two weeks of paid sick leave:**
 - **if quarantined and/or experiencing symptoms due to COVID-19, or**
 - **unable to work due to caregiving for someone subject to quarantine or for a child whose school or care arrangements are unavailable due to COVID-19.**
- **Up to an extra 10 weeks of expanded Family Medical Leave to care for a child whose school or child care is closed due to COVID-19.**
 - **Exempts employers with more than 500 employees**
 - **Small businesses may qualify for a hardship exemption from providing leave for children due to school or childcare closings.**



Families First Coronavirus Response Act (2020)



UNIVERSITY OF MINNESOTA

Driven to Discover®

Workers Compensation Insurance

- 14 states have taken action to extend workers compensation coverage to include COVID-19 as a work-related illness
- 6 states have enacted legislation creating a presumption of coverage for various types of workers
- 4 states have used executive branch authority to implement presumption policies for first responders and health care workers in response to COVID-19
- 4 states have taken executive action to provide coverage to other essential workers (e.g., grocery store employees)

Cunningham (2020)



UNIVERSITY OF MINNESOTA

Driven to Discover®

Americans with Disabilities Act

- ADA requires employers to provide reasonable accommodations for known limitations of applicants and employees with disabilities.
- If a job can only be performed at the workplace, are there reasonable accommodations for persons with disabilities, absent undue hardship for the employer, that could offer protection on a temporary basis to an employee who due to a pre-existing condition is at increased risk of COVID-19?
- Accommodations for reduced contact with others due to a disability may include changes to the work environment or temporary job restructuring of marginal job duties when feasible per CDC guidance.

(Equal Employment Opportunity Commission (2020))



UNIVERSITY OF MINNESOTA

Driven to Discover®

Executive Order

- **Meat and poultry processing workers are a component of the critical infrastructure within the Food and Agricultural Sector**
- **They may be permitted to continue work following potential exposure to COVID-19 provided they are not symptomatic, have not had a positive COVID-19 test, and additional precautions are taken to protect them and the community.**

Executive Order N.13917, 85 Fed. Reg. 26313 (April 28, 2020)



UNIVERSITY OF MINNESOTA

Driven to Discover®

Conclusions

- **This workforce, only one of many essential worker populations, is at very high risk of disease with heightened risk of transmission between work, home and community**
- **Policies such as paid sick leave, family and medical leave, Families First Coronavirus Response Act, workers compensation insurance, and the Americans with Disabilities Act offer critical benefits to eligible workers**
- **OSHA is enforcing standards and guidance for Covid-19, but stakeholders from labor and public health question if more regulation is needed to effectively address an airborne virus in a pandemic**



Research Recommendations

- **Evaluate employer implementation of industry specific prevention and control measures consistent with published guidelines for decreasing risk of SARS-CoV-2 transmission in relation to worker health outcomes and racial and ethnic disparities**
- **Evaluate access to, uptake and health outcomes associated with vaccinations for workers and their families**
- **Target essential industries with highest risk of exposures to SARS-CoV-2 transmission and the highest rates of minority and low wage workers**



References

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) Petition, U.S. Court of Appeals D.C. Circuit, Case # 20-1158. (May 18, 2020). Retrieved 9/20/20 from https://www.eenews.net/assets/2020/05/21/document_ew_05.pdf

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) Order, U.S. Court of Appeals D.C. Circuit, Case # 20-1158. (June 11, 2020). Retrieved 9/20/20 from <https://environblog.jenner.com/files/order-no-20-1158-1.pdf>

Cunningham, J. (August 28, 2020) COVID-19: Workers Compensation. National Council of State Legislatures. Retrieved 9/9/2020 from <https://www.ncsl.org/research/labor-and-employment/covid-19-workers-compensation.aspx>

Edens, A., Kapust P.J. (May 19, 2019) Occupational Safety & Health Administration. Updated interim enforcement response plan for Coronavirus Disease 2019 (COVID 19). Retrieved 9/20/20 from <https://www.osha.gov/memos/2020-05-19/updated-interim-enforcement-response-plan-coronavirus-disease-2019-covid-19>

Examining Liability During the COVID-19 Pandemic. Hearing before the Committee on the Judiciary, U.S. Senate. (May 12, 2020) (testimony of Rebecca Dixon, Executive Director, National Employment Law Project).

Executive Order N. 13917, 85 Fed. Reg. 26313 (April 28, 2020). Retrieved 9/9/2020 from <https://www.whitehouse.gov/presidential-actions/executive-order-delegating-authority-dpa-respect-food-supply-chain-resources-national-emergency-caused-outbreak-covid-19>

Families First Coronavirus Response Act, P.L. 116-127, 134 STAT. 177, 2020 Enacted H.R. 6201. Retrieved 9/9/2020 from <https://www.congress.gov/116/plaws/publ127/PLAW-116publ127.htm>

Krebs, C.K. (2020, August 18). Advisory Memorandum on Ensuring Essential Critical Infrastructure Workers Ability to Work During COVID-19. U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency, Office of the Director, Washington, D.C. Retrieved 9/20/2020 from https://www.cisa.gov/sites/default/files/publications/Version_4.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_FINAL%20AUG%202018v2_0.pdf



References and Images

Krisberg, K. (August, 2020). Essential workers facing higher risks during COVID-19 outbreak: meat packers, retail workers sickened. The Nation's Health. Retrieved 9/8/2020 from <https://thenationshealth.aphapublications.org/node/8792.full.print>

Occupational Safety and Health Act of 1970, P.L. 91-596, 84 STAT. 1590, 1970 Enacted S. 2193
Accessed 9/18/2020 from <https://www.osha.gov/laws-regs/oshact/completeoshact>

Shanker, D. & Mulvaney, L. (March 20, 2020) Threat of Sick Workers at U.S. Meat Plants Forces Policy Changes. Bloomberg News. Retrieved from <https://www.bloomberg.com/news/articles/2020-03-20/threat-of-sick-workers-at-u-s-meat-plants-forces-policy-changes>

U.S. Bureau of Labor Statistics (BLS). (July 6, 2020) Occupational Employment and Wages, May 2018. 51-3023 Slaughterers and Meat Packers. Retrieved 9/8/2020 from <https://www.bls.gov/oes/current/oes513023.htm>

U.S. Equal Employment Opportunity Commission (EEOC). (June 17, 2020) What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws. Retrieved 9/9/2020 from <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

Waltenburg, M. A., Victoroff, T., Rose, C. E., et. al. COVID-19 Response Team (2020). Update: COVID-19 Among Workers in Meat and Poultry Processing Facilities - United States, April-May 2020. *MMWR. Morbidity and mortality weekly report*, 69(27), 887–892. <https://doi.org/10.15585/mmwr.mm6927e2>



References and Images (cont.)

Waltenburg, M. A., Victoroff, T., Rose, C. E., et. al. COVID-19 Response Team (2020). Update: COVID-19 Among Workers in Meat and Poultry Processing Facilities - United States, April-May 2020. *MMWR. Morbidity and mortality weekly report*, 69(27), 887–892. <https://doi.org/10.15585/mmwr.mm6927e2>

Image (1): Retrieved 9/28/20 from <https://www.ers.usda.gov/amber-waves/2006/june/meat-processing-firms-attract-hispanic-workers-to-rural-america/>

