



2023 BRIEFING

Protections for Maryland Farmworkers, Poultry and Seafood Processing Workers

November 2022

Marylanders for
FOOD & FARM
Worker Protection



Authored by
Marylanders for Food & Farm Worker Protection Coalition

Marylanders for Food & Farm Worker Protection (MFFWP) is a broad diverse coalition of 17 organizations and labor law experts that use advocacy, grassroots organizing, and public education to win basic health and safety rights and protections for the poultry workers, crab picker, and field workers rendered vulnerable by our industrialized food system.

Our members include:

CATA – The Farmworkers Support Committee, Centro de los Derechos del Migrante, Chesapeake Physicians for Social Responsibility, Clean Water Action, Farmworker Justice, Maryland Pesticide Education Network, National Employment Law Project, Migrant Clinicians Network, Food & Water Watch, Friends of the Earth, Center for Progressive Reform, Fair Farms, Sunrise Baltimore/Maryland Maryland Campaign for Environmental Human Rights, Children’s Environmental Health Network, Public Justice Center, and labor law member experts.

I. Background

Working and living conditions for agricultural and meat processing workers create heightened risk for illness and workplace injury

Many essential workers in Maryland’s agricultural and meat processing industries are highly vulnerable to COVID-19 and work-related injury and illness.

Workers in these industries face compounding circumstances that exacerbate vulnerability: low-income, English as a second language, and work-contingent visas. Most work for low wages, lack access to medical care, hold temporary visas contingent on maintaining employment, and work for employers who do not offer sick leave. As a result, they cannot afford to miss work when ill and fear losing their jobs and visas if they complain about unsafe or unhealthy working conditions. Workers are at the mercy of the decisions of their employer – working in close quarters, working shoulder to shoulder in poultry plants, relying on the company to provide protective gear, traveling to work in employer-provided vehicles, and sleeping in employer-provided bunks and barracks.

Maryland hosts thousands of seasonal workers every year, whom we rely on to tend and harvest crops from our two million acres of fields. Like other outdoor laborers, farmworkers are subject to the heat and humidity of Maryland summers. This is especially dangerous for farmworkers, who perform physically demanding labor while often lacking basic protections in the workplace, such as drinking water, adequate toilet facilities, shaded areas, and paid rest breaks. Unlike many other workers toiling outdoors, farmworkers have [compounded exposure to pesticides and herbicides](#), which exacerbate health vulnerabilities.

Farm workers are 35 times as likely to die from heat stress as other workers.
- [Bureau of Labor Statistics](#)

An analysis of **federal data from the Bureau of Labor Statistics shows the three-year average of worker heat deaths has doubled since the early 1990s**, but we really have no idea how many workers are injured or dying from exertional heat related illnesses.

In addition, **according to the Bureau of Labor Statistics (BLS), farm workers are 35 times as likely as other workers to die from heat stress**, so it is very important that heat rules include all farm workers and take into consideration their special risks. As noted by the [American Public Health Association](#) (APHA) “many of these individuals are not paid livable wages, they work in hazardous conditions and face discrimination, and some are excluded from certain labor law protections.” Workers who apply pesticides have additional risks, they wear heavy protective clothing, and there is an [overlap between the symptoms of pesticide poisoning and heat illness](#). Workers who are paid at “piece rate” wages, may [find it difficult to break](#) for hydration, bathroom, and shaded rest to protect themselves.

Last summer was the [hottest summer](#) on record for the contiguous United States. Additionally, Maryland’s humid summers currently qualify the state as [severe for “wet-bulb temperature” according to NOAA](#). Wet-bulb temperature puts workers at much higher risk for heat stroke at lower temperatures because there is so much moisture in the air that sweating becomes ineffective at removing the body’s excess heat. The problem of [hot weather will only worsen](#). It is predicted that by 2080, Maryland temperatures will resemble Mississippi’s. The number of days with the [heat index above 105](#) for Baltimore is expected to increase from 8 in 2000 to 47 in 2050.

Internationally recruited seasonal workers also work in other food-related industries in Maryland, including seafood and [crab processing workers with H-2B visas](#). Hundreds of workers, largely women, travel from Mexico to

the Eastern Shore on H-2B visas each year to pick crabs. In 2007, for example, H-2B workers produced 82% percent of Maryland's crab meat. Crowded living and working conditions lead to outbreaks of [COVID-19](#). [Work-related injury and illness is rampant](#): workers are exposed to **asthma-inducing fumes** during crab steaming and **bacteria like *Vibrio* that can cause amputation, life-threatening wound infections, and death**. Most have **very limited access to medical care**, especially those in isolated communities on the Eastern shore with limited English proficiency. Employers fail to provide accommodations for pregnant workers, often forcing them to quit and return to Mexico.



Similarly, **poultry processing workers have unique working conditions that create heightened risk**. Unlike in other workplaces, poultry plants are refrigerated for food safety. The line speeds, which have dramatically increased over recent years in some plants, force workers to labor in close proximity. **High rates of injury are common**, including lacerations and painful, crippling repetitive stress injuries like carpal tunnel syndrome. Government studies revealed alarming rates of carpal tunnel syndrome among poultry plant workers – rates as high as 42% of production workers. According to the BLS, poultry plant workers also suffer amputation at rates five times as high as other industries. **Workers are unable to take needed breaks, and reports of workers wearing adult diapers to get them through shifts are both shocking and revealing of an industry that doesn't take worker health seriously.**

Poultry and meat plants were among the first locations of widespread outbreaks of COVID-19. Academic researchers documented that the outbreaks in these few plants spread within communities, resulting in 6-8% of all cases in the US in the first six months of the pandemic.

The absence of basic worker protections hinders workers' access to medical care

Most agricultural and meat processing workers lack many of the basic employment benefits that employees in other professions enjoy, including health insurance, sick leave, and unemployment insurance. In fact, the 2018 Maryland Healthy Working Families Act specifically excludes agricultural employees from paid sick leave. As a result, sick workers and their families do not have paid leave to allow them to take care of themselves and their loved ones. As migrant and immigrant workers, they support extended families here and abroad on poverty wages and the consequences of missing a day of work due to illness are substantial. **The consequences of complaining about hazardous work conditions are extremely high**, especially for workers on temporary H-2A and H-2B visas,

whose visas are tied to their employers.

These workers often lack access to preventive care, medical assistance, health insurance, and medical treatment. Workers who become ill with COVID-19 may not seek medical attention because they lack the financial resources or insurance to cover the costs of their care. If they are able to obtain medical care, workers may confront language barriers that make it difficult to receive the care they need. [Many food system workers reported that they would attend work while ill](#) during the early COVID-19 pandemic, especially if they felt that they had no other choice. Workplace culture and employer policies substantially influences whether some workers were more likely to report to work sick, including if employers encouraged this behavior, downplayed COVID-19 risks, or failed to implement effective COVID-19 mitigation measures. **At the height of the pandemic, big meatpackers including Maryland's [Tyson Foods](#) incentivized sick workers to come to work by offering a \$500-\$600 bonus to workers who did not miss a day.**

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not missing a day.
- TysonFoods.com**

For these essential workers, missing a day of work or an entire paycheck could mean the difference between being able to feed their families or go hungry, while ironically their work brings food to families' tables across the country. Workers on temporary H-2A and H-2B work visas, whose visas are tied to their employers, could be deported if they lose their jobs. It should be no surprise to read [reports](#) of workers who continue to work while sick for fear of losing their only source of income, and workers who are too scared to publicly complain about unsafe conditions. Certain pesticide-registered disinfectants likely used in the workplace or in their living quarters, known to cause or exacerbate respiratory illnesses, can adversely impact workers' immune systems making them even more vulnerable to COVID-19.



Maryland did not adequately track and report cases in food production workers or farmworker COVID illness to allow effective mitigation measures

[Hot spots of COVID-19 across the country devastated agricultural and meat processing workers, with hundreds sick and many dying.](#) During the first year of the pandemic, COVID 19 spread like wildfire among poultry workers nationwide – including those in Maryland. Agricultural communities such as Immokalee, Florida; Yakima, Washington; Marion County, Oregon and Lanier, Georgia have seen spikes in the number of cases. Other communities with large meat packing plants have experienced similar outbreaks, including Sioux Falls, South Dakota; Louisa County, Iowa and Harrisonburg, Virginia.

For contact tracing, the state of **Maryland does not collect employment classification for food processors and those in the agricultural sector when gathering data on COVID-19 cases.** Though poultry plants were the location for some of the largest COVID-19 outbreaks that then spread into the community, Maryland lumped cases among

Coronavirus infections and deaths among top 5 meatpackers were 3 times higher than previous estimates

- [Select Committee on the Coronavirus Crisis,](#)

117th Congress

food processors (poultry, seafood workers) into a general “manufacturing” category with electricians, carpenters, HVAC workers, welders, contractors, and painters. Agricultural workers are classified as “other non-public-facing” which includes workers that do not have direct interactions with the public, such as but not limited to, warehouse workers, some office workers, some car mechanics, etc. Thus, Maryland was unable to detect, and then report, and then act on the outbreaks in Maryland’s poultry, food processing, and farm industries. The fate of food processors and farm workers in this pandemic is largely unknown, except for new reports of an outbreak in a single large facility. This is a major oversight that needs to be corrected. Agriculture is the largest industry in Maryland.

Since there is no data on what percent of these workers are testing positive for COVID-19, getting sick, needing hospitalization, or even dying, there is no way to make evidence-informed recommendations and regulations. Without this data, we cannot fully comprehend how this pandemic has affected poultry workers, seafood pickers, and agricultural workers. **Better statistics on food processing and agricultural workers and COVID 19 will let us know whether we have done enough to protect the people who risk their lives to make sure the rest of us have fresh Maryland grown food on our tables, and will enable the state to more effectively respond to future health emergencies.**

Maryland never created a Workplace Safety Emergency Temporary Standard

Several other states have issued emergency workplace safety regulations to address the high-risk conditions in agricultural and meat processing facilities and labor camps to help prevent the spread of COVID 19 among employees and their families. Maryland passed the **COVID-19 Response Act of 2021, which would have created a workplace safety Emergency Temporary Standard, but Governor Hogan terminated the state of emergency preventing the bill from going into effect.** Having a draft plan on the books for the next public health emergency would help the state learn from its experience with COVID-19. The emergency temporary standard should include provisions for testing, outbreak reporting, protective gear, quarantine, properly ventilated and cooled housing and transportation, as well as provisions to enable sick workers to miss work without the risk of loss of essential income or employment.

Examples of states that had implemented emergency safety regulations and protections covering food processing and agriculture workers include Virginia, California, Michigan, and Washington.

Short Term Funding for Long Term Needs

Health departments around the state have been critically understaffed and underfunded, well before the COVID-19 pandemic. With the pandemic and increased federal funding, many of these departments have been able to access CDC grants to better perform their critically needed functions. The health inequities faced by food and farm workers predate the pandemic. While an infusion of pandemic resources and fundings has helped to address some worker health challenges, an ongoing commitment of resources will be required to achieve the institutional reform necessary to ensure equitable healthcare access for workers.

Furthermore, much of the funding that supports critical needs for the low-income and vulnerable population working in food production (and others) is short term, hampering the ability for service providers to plan long term. For example, food box funding is also slated to end in December.



II. Recommendations

Specific required worker protections can protect not only the farmworker and food processing plant worker but also ensure Maryland's public health, the stability of our food supply, and companies' and farmers' bottom lines.

1. Collect health data to include occupation and industry, race, ethnicity, and primary language.

- A. Establish the methodology for using standardized North American Industry Classification System (NAICS) and BLS Standard Occupational Classification (SOC) codes that properly define industry and occupation.
- B. Adequately train the workers who collect the data.
- C. Latino/a health data is frequently missed and needs better tracking.

2. Institute Heat Stress Standards that are at least as effective as similar standards in California and Oregon.

- A. Improve data collection on heat related illness, injury, hospitalization, and death in the workplace.
- B. Replace proposed 2022 heat stress standard to create best-evidenced regulations to prevent heat related illness, injury, hospitalization, and death in the workplace.

C. Include policies that address heat and ventilation concerns in employer-provided housing.

3. Create a template for a health Workplace Safety Emergency Temporary Standard.

4. Increase capacity of local Health Departments to meet the needs of food and farm workers.

A. Local health departments are often not aware or prepared to address occupational health issues, including COVID-19. **As employment and job characteristics are considered social determinants of health, local health departments should be funded to serve as hubs for occupational health resources, in partnership with immigrant and migrant serving community-based organizations who can connect community members to these resources.**

B. **Given the overrepresentation of immigrants and speakers of other languages in [food](#) and [farm work](#), local health departments should have the resources necessary to create and implement robust language access plans**, as required by Title VI of the Civil Rights Act of 1964. Ultimately, local health departments should be able to provide linguistically and culturally competent services to migrants, immigrants, and speakers of other languages, especially Spanish and Creole.

5. Create a role within the Administration that facilitates closer partnerships between immigrant and migrant community-based organizations and the administration.

6. Institute Maryland OSHA data-driven targeted inspections in poultry plants and larger farms to ensure employers comply with OSHA regulations, and on farms, ensure there are adequate facilities, including housing, access to fresh water, and sanitary facilities on the job site or at employer-provided housing, while workers are present.

7. Provide adequate staffing and funding to support all recommended activities.

For further information on these issues, please contact Marylanders for Food & Farm Worker Protection, Emily Ranson, eranson@cleanwater.org.