

MEMORANDUM

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Re: **COVID-19 Preparedness Considerations for the Food Industry**

As you likely know, the U.S. Food and Drug Administration (FDA) and the Centers for Disease Control and Prevention (CDC) are closely monitoring the spread of the novel coronavirus (COVID-19), a respiratory disease that has been declared a public health emergency. At this time there have been no reported concerns of COVID-19 transmission via food or food packaging, according to FDA. Nonetheless, we are receiving many inquiries. We are issuing this memorandum to summarize key public health advice and to highlight some key issues to consider when developing a communicable disease response strategy.

Federal Recommendations

FDA's official statement on COVID-19 is as follows:

We are not aware of any reports at this time of human illnesses that suggest COVID-19 can be transmitted by food or food packaging. However, it is always important to follow good hygiene practices (i.e., wash hands and surfaces often, separate raw meat from other foods, cook to the right temperature, and refrigerate foods promptly) when handling or preparing foods. ^{1/}

We understand that FDA also is preparing additional guidance in the form of a Questions and Answers document, but this has not yet been released.

The CDC has published interim guidance for businesses and employers that provides a number of helpful strategies to help plan and respond to COVID-19. ^{2/} In particular, CDC recommends actively encouraging sick employees to stay home and emphasizing respiratory etiquette and hand hygiene

^{1/} FDA Statement: Coronavirus (COVID-19) Supply Chain Update (February 27, 2020), available at <https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-supply-chain-update>.

^{2/} Centers for Disease Control and Prevention, Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19) (February 26, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html>.

by all employees. CDC also advises businesses of all types to perform routine environmental cleaning, including routinely cleaning all frequently touched surfaces in the workplace. Among CDC's resources is a decision tree to help direct management decision making in response to an employee illness. ^{3/}

Key Issues to Consider

While there is a lot of uncertainty in the situation, as it is constantly evolving, it is prudent to take a look at your establishment's practices for managing employees who may be sick with a communicable disease. The following are several key areas for the food industry to consider as this issue develops, primarily drawn from federal recommendations.

- Designate a crisis response team and available resources to prepare for and respond to the COVID-19 situation. Potential roles to include on this team include business operations, human resources, quality/food safety, legal counsel, communications, and scientific experts.
- Review existing policies, particularly with regard to handling employees with an illness, to assess whether modifications are needed to reflect the issues presented by COVID-19. For example, you may want to evaluate your existing policies to see if they address an employee who exhibits flu-like symptoms or reports contact with someone who was diagnosed with a communicable disease such as COVID-19. It also could be prudent to assess whether your policies address how to handle other employees who may have come in contact with an employee diagnosed with a communicable disease. It would be prudent to work with employment law counsel and human resources to ensure these policies are legally sound.
- Confirm that appropriate signage is posted reminding employees to take appropriate hygienic precautions, such as practicing hand hygiene and applicable Good Manufacturing Practices. It also could be prudent to assess your practices for reminding employees that the GMPs require individuals with an illness or open lesion to avoid contact with food, food contact surfaces, and food packaging if there is a reasonable probability their presence could contaminate such products and that the GMPs require "personnel to report such health conditions to their supervisors." ^{4/}
- Examine cleaning and sanitizing procedures to confirm they are appropriate in the event an employee becomes ill with a communicable disease such as COVID-19, including policies tailored to the food production or retail sale environment. ^{5/}
- Evaluate whether your policies address any food to which an ill employee may have had exposure, including whether the policies address whether there are conditions present that would support a company decision to place food on hold pending advice from the public health authorities.

^{3/} Coronavirus Disease 2019 (COVID-19) Risk Assessment and Public Health Management Decision Making (February 28, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/public-health-management-decision-making.pdf>.

^{4/} See, 21 CFR 117.10(a).

^{5/} See, e.g., Interim Guidance for Ships on Managing Suspected Coronavirus Disease 2019 (February 18, 2020), available at <https://www.cdc.gov/quarantine/maritime/recommendations-for-ships.html>.

- Determine whether your plan addresses contacting the public health authorities (e.g., local or state health department) and whether there are any local requirements mandating such contact in the event an employee in the workplace has been diagnosed with a communicable disease such as COVID-19.
- Establish a process to communicate information to employees, business partners, and customers on your infectious disease outbreak response plans.

Additional Resources

Companies will be well-served to closely follow developments and to ensure that policies and practices are updated as needed in response to changing circumstances. For reference, the following websites provide useful information concerning the latest status concerning COVID-19 and federal recommendations:

- FDA: <https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/coronavirus-disease-2019-covid-19>
- CDC: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- World Health Organization: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>

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Should you have any questions, please do not hesitate to contact us.