

Insights

COVID-19: FDA AND USDA GUIDANCE ON WORKER SAFETY AND SANITATION IN FOOD PRODUCTION FACILITIES

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As the COVID-19 pandemic has continued to escalate, both the Food and Drug Administration (“FDA”) and the U.S. Department of Agriculture (“USDA”) have issued guidance and public statements advising manufacturers and distributors in the food and agriculture industry how best to maintain worker safety and sanitation in food production facilities.

In sum, both the FDA and USDA currently emphasize that foodborne exposure is not known to be a route of transmission of COVID-19 and defer to local rules and pre-established guidelines with regards to maintaining clean food facilities. Below are highlights from FDA and USDA on worker safety and sanitation in food production facilities in light of the coronavirus pandemic:

A. Overview:

- “Food facilities, like other work establishments, need to follow protocols set by local and state health departments, which may vary depending on the amount of community spread of COVID-19 in a particular area.” – USDA.
- “We do not anticipate that food products would need to be recalled or be withdrawn from the market because of COVID-19, as there is currently no evidence to support the transmission of COVID-19 associated with food or food packaging.” – FDA.

B. Worker Safety:

- “In food production/processing facilities and retail food establishments, an evaluation should be made to identify and implement operational changes that increase employee separation. However, social distancing to the full 6 feet will not be possible in some food facilities.” – FDA.
- “If an employee is confirmed to have COVID-19, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality about individual employees’ identities.” – FDA.
- In addition, if an employee is confirmed to have COVID-19, “facilities should re-double their cleaning and sanitation efforts to control any risks that might be associated with workers who

are ill...[f]or example, facilities are required to maintain clean and sanitized facilities and food contact surfaces.” – FDA.

- With regards to steps that food manufacturers and distributors should take to prevent employee exposure to COVID-19, the FDA cites to OSHA’s non-binding [Guidance on Preparing Workplaces for COVID-19](#), which includes the following steps that employers should take:
- promoting frequent and thorough handwashing;
- encourage sick workers to stay home ;
- encourage respiratory etiquette, such as covering your mouth when you sneeze;
- provide tissues and trash bins;
- if possible, establish flexible worksites and flexible work hours;
- discourage workers from using other workers’ supplies;
- regularly disinfect surfaces; and
- develop policies and procedures for prompt identification and isolation of sick workers, if appropriate.

C. Sanitation:

- “[I]t’s always critical to follow the 4 key steps of food safety—clean, separate, cook, and chill – to prevent foodborne illness.” – FDA.
- “[H]and sanitizers may be used in addition to or in combination with proper handwashing. CDC recommends that everyone wash their hands with plain soap and water. Alcohol-based hand sanitizers may be used if plain soap and water are not available.” – FDA.
- “Food facilities are required to use EPA-registered ‘sanitizer’ products in their cleaning and sanitizing practices. In addition, there is a list of EPA-registered ‘disinfectant’ products for COVID-19 that [are] qualified under [the Environmental Protection Agency],” which can be found [here](#). – FDA.
- “You should only wear a mask if a healthcare professional recommends it. A facemask should be used by people who have COVID-19 and are showing symptoms.” – FDA.
- “As an extra precaution to help avoid the transmission of COVID-19 through surface contact, we recommend frequent washing and sanitizing of all food contact surfaces and utensils.” – FDA.

Bryan Cave Leighton Paisner LLP has extensive experience helping clients with all legal issues arising in the food and agribusiness industries. We will continue to monitor developments amid the COVID-19 pandemic and are ready to help address your questions and concerns. Please do not hesitate to reach out to the authors of this Client Alert or any member of BCLP's [Food and Agribusiness Team](#) if you have any questions, and you can follow our ongoing COVID-19 coverage at bclplaw.com.

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