

# FDA COVID-19 Updates of Relevance to the Food Industry

April 27, 2020

Food

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Since Covington's last [client alert](#) on developments for the food industry during the COVID-19 public health crisis, FDA and USDA have posted a number of updates of interest to the industry:

- FDA posted a [fact sheet](#) on its website addressing the use of respirators, disposable facemasks, and cloth face coverings within the food and agriculture sector. The fact sheet, developed in collaboration with the Centers for Disease Control and Prevention ("CDC"), is intended to provide a quick guide as to which items are most appropriate for various settings. The resource also provides instructions on how to wear and care for cloth face coverings properly.
- FDA released a [summary](#) entitled "What to Do if You Have COVID-19 Confirmed Positive or Exposed Workers in Your Food Production, Storage, or Distribution Operations Regulated by FDA." The summary is based on CDC recommendations and provides steps that employers and workers can take to address sick workers and prevent and slow the spread of disease, while supporting the continuity of essential operations.
- FDA issued [guidance](#) communicating a temporary policy to address the difficulties of conducting onsite observations and examinations under the Accredited Third-Party Certification Program. That program, established under the Food Safety Modernization Act, is a voluntary program recognizing accreditation bodies ("ABs") that accredit third-party certification bodies ("CBs") to conduct food safety audits and issue certifications to eligible foreign entities. By regulation, ABs and accredited CBs must perform certain onsite observations and examinations. FDA's guidance provides temporary flexibility regarding these requirements, in certain circumstances, in order to allow ABs to maintain the accreditations of CBs and to prevent issued certifications from lapsing.
- Additionally, last week, the Agricultural Marketing Service ("AMS") within USDA [announced](#) that it will procure and distribute up to \$3 billion of fresh produce, dairy, and meat products to Americans in need. Section 1101(g) of the Families First Coronavirus Response Act provides USDA with the authority to purchase commodities for emergency distribution during a public health emergency. Pursuant to this authority, AMS will award contracts to vendors to buy, assemble, and deliver commodity boxes to food banks and other non-profit and governmental organizations. Interested parties should review the [notice](#) in the Federal Register. Invitations to submit proposals are expected to be issued within two weeks.

## Food

Covington continues to advise the food industry extensively on issues relating to the COVID-19 crisis, and will continue to provide updates to our clients and contacts. Please let us know if you have any questions regarding the developments noted above.

As the legal, regulatory, and commercial implications of coronavirus COVID-19 continue to evolve, our lawyers and advisors are helping clients navigate the complex considerations that companies around the world are facing and develop plans and strategies in response to COVID-19. Reach out to our COVID-19 task force [COVID19@cov.com](mailto:COVID19@cov.com) and visit our [COVID-19 Legal and Business Toolkit](#).

If you have any questions concerning the material discussed in this client alert, please contact the following members of our Food, Beverage, and Dietary Supplements practice:

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Beth Braiterman, has not yet been admitted to the DC bar and is supervised by principals of the firm.

This information is not intended as legal advice. Readers should seek specific legal advice before acting with regard to the subjects mentioned herein.

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