

MEMORANDUM

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Date: April 17, 2020

Re: COVID-19 Update: Highlights from New Q&A With FDA Deputy Commissioner Yiannas

Yesterday, the U.S. Food and Drug Administration (FDA) posted on its website a conversation with FDA Deputy Commissioner for Food and Policy Response Frank Yiannas that addresses common questions concerning food availability and food safety during the COVID-19 pandemic.^{1/} Consistent with prior statements from FDA, Deputy Commissioner Yiannas reiterates that currently there are no food shortages, and there is no evidence of food or food packaging being associated with transmission of COVID-19. Mr. Yiannas also provides updates on FDA's other priorities, including the New Era of Smarter Food Safety, outbreak monitoring, and implementation of the FDA Food Safety Modernization Act (FSMA). Highlights from his statements are summarized below.

- **Food Availability:** Deputy Commissioner Yiannas explains that the persistence of local outages of certain items is due to unprecedented consumer demand and does not reflect an inability of the food system to produce, process, and deliver food. He reports that food manufacturers and retailers are working around the clock to replenish shelves, and FDA is working closely with the food industry to monitor for supply chain disruptions.

Regarding food manufacturing facility closures that have occurred in connection with COVID-19, Deputy Commissioner Yiannas explains that FDA and the U.S. Department of Agriculture (USDA) do not see any nation-wide or regional shortages of supply. He discusses the current imbalance in the supply chain resulting from restaurants, hotels, schools and other entities having to close their dining facilities, but explains that farmers and manufacturers are working to change their normal distribution channels to redirect foods to grocery stores.

- **COVID-19 and Food Safety:** Deputy Commissioner Yiannas provides reassurance that the U.S. food supply remains safe and "there is NO evidence of food or food packaging being associated with transmission of COVID-19." He also reiterates FDA's earlier comment that the agency does "not anticipate that food products would need to be recalled or be withdrawn from the market if a person who works on a farm or in a food facility tests positive for COVID-19."

^{1/} FDA's Perspective on Food Safety and Availability During and Beyond COVID-19 (Apr. 16, 2020), available at <https://bit.ly/3en4xll>.

- FDA Inspections and Food Safety: Deputy Commissioner Yiannas explains that although FDA is not performing in-person routine surveillance inspections of farms and food facilities, the agency will still perform mission critical inspections when needed to protect public health. He says that such inspections could be necessitated by natural disasters, outbreaks of foodborne illness, Class 1 recalls and, in some cases, inspections at firms with a poor track record when it comes to food safety. Mr. Yiannas also discusses FDA's other tools and authorities, including the agency's PREDICT import screening system.

Regarding FSMA, Deputy Commissioner Yiannas explains: "Industry has the primary responsibility to ensure the foods they produce are safe and by and large, they're doing an amazing job at providing safe and available food to consumers. Clearly, at this critical time, food safety is as important as it has ever been, and we expect food producers to redouble their food safety efforts."

- Outbreak Surveillance: Deputy Commissioner Yiannas reports that FDA continues to be on the lookout for outbreaks of foodborne illness. In particular, FDA's Coordinated Outbreak Response and Evaluation (CORE) Network remains fully staffed and continues to work with its state and federal partners to protect consumers from contaminated food.
- Ongoing FDA Priorities: Deputy Commissioner Yiannas reports that FDA previously had planned to publish the New Era of Smarter Food Safety blueprint in March 2020, but had to shift its efforts in response to the pandemic. ^{2/} He said work is continuing on the framework behind the scenes and the blueprint will be published "when the time is right." He also emphasizes that the issues and challenges FDA has seen in its pandemic response have demonstrated the value of the New Era of Smarter Food Safety initiative. For instance, he says that a more digital, traceable food system could enable the industry to anticipate and prepare to address the types of supply-chain imbalances currently taking place. Finally, Mr. Yiannas mentions that FDA is continuing its work on outstanding FSMA implementation issues, such as the agricultural water quality and testing standards.

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We will continue to monitor FDA's response to COVID-19. Please contact us if you have any questions regarding this or other matters.

^{2/} See HL Memo – FDA Holds Public Meeting on “A New Era of Smarter Food Safety” to Further FSMA Implementation (Oct. 25, 2019), available at <https://www.hlfoodlaw.com/2019/10/fda-holds-public-meeting-on-a-new-era-of-smarter-food-safety-to-further-fsma-implementation/>.