



LP Bulletin

Friday 28th January 2011

Bulletin 738 - 01/11 - Food Safety Modernization Act - USA

The Association would like to inform Member's that The Food Safety Modernization Act was signed into law by President Obama on January 4, 2011. The purpose of the legislation is to enhance the safety of food produced in the U.S. and imported from overseas, and to prevent food-borne illnesses. About 48 million people get sick, 128,000 are hospitalized and 3,000 die each year due to food-borne diseases. This law represents the most sweeping overhaul of food safety legislation since the 1930's.

The \$1.4 billion law mainly expands the reach and regulatory powers of the Food and Drug Administration. The FDA oversees production of all food products with the exception of meat, poultry and dairy, which fall under the jurisdiction of the U.S. Department of Agriculture.

The Food Safety Modernization Act will emphasize prevention so the agency can try to stop outbreaks before they begin and will give the government broad new powers to inspect processing plants, order recalls and impose stricter standards for imported foods. It will also require larger farms and food manufacturers to prepare detailed food safety plans and tell the FDA how they are working to keep their food safe at different stages of production.

Some of the key elements of the new regulations include:

- Allow the FDA to order a recall of tainted foods. Currently the agency can only negotiate with businesses to order voluntary recalls;
- Require the FDA to create new produce safety regulations for producers of the highest risk fruits and vegetables;
- Increase inspections of domestic and foreign food facilities, directing the most resources to those operations with the highest risk profiles. The riskiest domestic facilities would be inspected every three years;
- Require farms and processors to keep records to help the government trace recalled foods;
- Require grocery stores to proactively alert consumers about recalls.

The legislation had unprecedented backing from numerous major food companies, many of which realized that safe food is good for business.

<http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm238000.htm> It is too early to say how this new law will affect shipping lines and transportation companies. Congress has established specific implementation dates in the legislation. Some authorities will go into effect quickly, such as mandatory recall authority, and others require FDA to prepare and issue regulations and guidance documents. The Association will monitor the implementation of the below Sections of the new law and keep Member's alerted to any actions that they will need to take to fulfil their requirements under the law.

SECT. 111. SANITARY TRANSPORTATION OF FOOD.

<http://www.govtrack.us/embed/sample-billtext.xpd?bill=s111-510&version=es&nid=t0%3Aes%3A507?bill=s111-510&version=es&nid=t0%3Aes%3A507>(a) In

General- Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations described in section 416(b) of the Federal Food, Drug, and Cosmetic Act.<http://www.law.cornell.edu/usc-cgi/newurl?type=titlesect&title=21§ion=350e>

<http://www.govtrack.us/embed/sample-billtext.xpd?bill=s111-510&version=es&nid=t0%3Aes%3A508?bill=s111-510&version=es&nid=t0%3Aes%3A508>(b) Food Transportation Study- The Secretary, acting through the Commissioner of Food and Drugs, shall conduct a study of the transportation of food for consumption in the United States, including transportation by air, that includes an examination of the unique needs of rural and frontier areas with regard to the delivery of safe food.

SEC. 303. AUTHORITY TO REQUIRE IMPORT CERTIFICATIONS FOR FOOD.

<http://www.govtrack.us/embed/sample-billtext.xpd?bill=s111-510&version=es&nid=t0%3Aes%3A1145?bill=s111-510&version=es&nid=t0%3Aes%3A1145>(a)

In General- Section 801(a) <http://www.law.cornell.edu/usc-cgi/newurl?type=titlesect&title=21§ion=381>With respect to an article of food, if importation of such food is subject to, but not compliant with, the requirement under subsection (q) that such food be accompanied by a certification or other assurance that the food meets applicable requirements of this Act, then such article shall be refused admission.'

<http://www.govtrack.us/embed/sample-billtext.xpd?bill=s111-510&version=es&nid=t0%3Aes%3A1146?bill=s111-510&version=es&nid=t0%3Aes%3A1146><http://www.govtrack.us/embed/sample-billtext.xpd?bill=s111-510&version=es&nid=t0%3Aes%3A1147?bill=s111-510&version=es&nid=t0%3Aes%3A1147>(q) Certifications Concerning Imported Foods-

<http://www.govtrack.us/embed/sample-billtext.xpd?bill=s111-510&version=es&nid=t0%3Aes%3A1148?bill=s111-510&version=es&nid=t0%3Aes%3A1148>(1) IN GENERAL- The Secretary may require, as a condition of granting admission to an article of food imported or offered for import into the United States, that an entity described in paragraph (3) provide a certification, or such other assurances as the Secretary determines appropriate, that the article of food complies with applicable requirements of this Act. Such certification or assurances may be provided in the form of shipment-specific certificates, a listing of certified facilities that manufacture, process, pack, or hold such food, or in such other form as the Secretary may specify.

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