

## **Food Safety Modernization Act - What it Means for the Feed and Livestock Industries**

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The President signed the Food Safety Modernization Act (**FSMA**) into law on January 4, 2011. The 115-page law provides a host of new authorities for the U.S. Food and Drug Administration (**FDA**) not seen since the creation of the FDA in the Federal Food, Drug and Cosmetic Act of 1938.

The centerpiece of the new law is Section 418: Hazard Analysis and Risk-Based Preventive Controls, which requires domestic food and feed facilities that manufacture, process, pack, or hold food or feed products to perform a hazard analysis at each facility for hazards that are “reasonably foreseen,” prepare adequate controls to “significantly minimize or prevent the occurrence” of each, monitor performance, and routinely maintain records. Facilities must maintain such records for at least 2 years.

The FDA is to draft regulations for feed, food, produce, and imported products to implement this new law. Facilities making products for export to the U.S. are required to comply with the same provision. Facilities that import products must assure that the foreign facilities have developed hazard analyses and written risk-based preventive controls. This can be accomplished by direct inspection of the foreign facilities or the use of FDA-accredited third party entities that can certify compliance with the new law.

The FSMA provides FDA with authority to revoke facility registrations, thereby halting operations at these plants. The FSMA also grants FDA mandatory recall and administrative detention authorities under specific conditions or causes. Implementation of the Safe Food Transportation Act of 1990 is required by FSMA, and FDA must promulgate rules within 18 months enactment of FSMA.

Congress is unlikely to fully fund the requirements of this new law (a budget request of \$300 million), including hiring 4,000 new field staff; 600 or more foreign facility inspections annually and the development of performance standards for the affected industry, which are the tolerances/guidance levels for contaminants, among many other requirements.

The cost of preventive control regulations for the industry is estimated to exceed \$1 billion and may cause delay in FSMA rulemaking. The food and feed industries estimate that training and compliance inspections will take 10 years to fully implement the provisions of FSMA.

For more information, visit [www.fda.gov/food/foodsafety/FSMA](http://www.fda.gov/food/foodsafety/FSMA).

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