

CONGRESS ENACTS LANDMARK FOOD SAFETY LEGISLATION

The most sweeping changes in FDA oversight of American food safety in more than 70 years were enacted by Congress on Tuesday, December 21, 2010. The landmark Food Safety and Modernization Act is now poised to become law, pending President Obama's signature on December 22.

The bill represents the first major overhaul of the American food safety system since 1938, and will allow the Food and Drug Administration (FDA) to order mandatory recalls in the event of tainted or contaminated food, a power the agency has never possessed.

The legislation will also significantly boost the FDA's ability to oversee food imports, mandating that the agency conduct at least 600 inspections of overseas facilities in its first year, with that number doubling for the following five years.

Domestically both large and small food producers will need to keep better records and the FDA will aim to eventually carry out inspections every three years on facilities, compared with once every 10-and-a-half years now. "The most significant change is that this moves from a reactive food safety system, reacting to contamination, to a prevention based one," says Erik Olson, director of the food and consumer product safety programs for the Pew Health Group.

Joel Newman, AFIA president & CEO, explained the new law carries several additional requirements for FDA to recognize sourcing and production practices unique to the feed industry, including the need to buy ingredients from elevators and others who commingle grains and oilseeds from several farms, and to ensure FDA can exempt the feed and pet food industries from certain regulations when appropriate. Also in the new law is new FDA authority to recognize and officially approve the use of third-party compliance, inspection and testing organizations as part of compliance regimens.

The new law does not impose registration fees on companies as the House-passed bill authorized. However, the law does authorize user fees to pay the government's cost of a mandatory recall, facility reinspections, export certification and the voluntary importer inspection program.

The new law gives FDA first-time mandatory recall authority, but with administrative protections for regulated industry. The new law requires all companies currently registered under the Bioterrorism Act to re-register every other year with the agency and to develop written, risk-based food hazard control plans. The agency will have greater access to registered company records, the ability to trace back contaminations, a voluntary expedited import control program, and penalties are increased.

"This outcome is really a new chapter in the nation's history when it comes to food safety," says Pamela Bailey, president and CEO of the Grocery Manufacturers Association. "This update and modernization is long overdue."

Sources: American Feed Industry Association (AFIA), TIME Inc.