



## National Grain and Feed Association



## Food and Feed Safety

**Issue:** Congress is considering legislation that would make major changes to the nation's food and feed safety laws. The House on July 29, 2009 approved its version of such legislation (H.R. 2749), which would mandate broad new authorities and fees for the U.S. Food and Drug Administration. The Senate is expected to consider its version of such legislation later this year.

**NGFA Position:** The NGFA will assess the merits of the final version of food/feed safety legislation based upon whether it takes a science- and risk-based approach, is cost-effective, and would truly enhance what already is the safest and most abundant food and feed supply in the world.

### **NGFA Concerns Over House-Passed Bill (H.R. 2749)**

The NGFA has major concerns about the following aspects of House-passed food/feed safety bill:

- ◆ Onerous and unachievable “full-pedigree” product-tracing requirements, including a requirement that FDA within two business days identify each person producing, manufacturing, processing, packing, transporting, storing or selling food subject to a recall action.
- ◆ Delegation of unprecedented authority to FDA district offices, including the authority to issue mandatory recalls and subpoenas; prescribe hazards to be addressed and preventive controls to be implemented; and unbridled access to confidential food/feed safety and food/feed defense plans.
- ◆ Authority for FDA to impose regulatory standards through guidance documents, which are not subject to notice-and-comment rulemaking or cost-benefit analysis.
- ◆ Authority for FDA to suspend a facility's registration under the Bioterrorism Act – in essence, shutting it down – based on a presumption that it “could” pose a danger to human or animal health, versus having a “reasonable belief” that such a problem exists.
- ◆ A one-size-fits all facility registration fee (\$500/facility; \$175,000/company maximum) that provides no direct benefit to those assessed. Financing FDA's food/feed safety activities rightfully is a function of the federal government that the NGFA believes should be financed through appropriated funds.
- ◆ Require country-of-origin labeling of imported non-processed agricultural commodities, such as grains and oilseeds, until reaching final processing. This would create unnecessary and costly segregation of storage, handling and transport that would provide no food/feed safety benefits, and likely would violate U.S. trade commitments.

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- ◆ Require facilities to guarantee no adulterated products enter commerce, despite their best efforts to identify and control hazards.
- ◆ Dramatically increased civil penalties, even for unintentional or minor violations that do not pose a danger to human or animal health.
- ◆ Absence of provisions to protect the confidentiality/disclosure of sensitive company/facility records and business information to which FDA inspectors would have unprecedented access, such as company hazard analyses, preventive controls, and written food/feed safety and food/feed defense plans to protect against agro-terrorism.

### **NGFA-Suggested Improvements to Senate Bill (S. 510)**

In the version of the food/feed safety bill awaiting action on the Senate floor, the NGFA is pursuing enhancements that would:

- ◆ Require FDA, when developing regulatory standards and enforcement, to recognize the presence of hazards in the natural environment in which the grain and feed system operates that make zero tolerance standards unrealistic and unachievable. Further, the NGFA advocates that the legislation recognize the different science- and risk-basis for establishing standards for human versus animal feed.
- ◆ Expressly prohibit FDA, under any product-traceability language, from altering the customary practice of commingled storage, handling and transport of raw and processed commodities and ingredients.
- ◆ Include language to protect against unauthorized and inappropriate disclosure of confidential business information and records to which FDA would have access.
- ◆ Provide indemnification to producers and facilities for wrongfully issued recall orders.