

Food Safety Modernization Act of 2010 – Impacts on Rail Transportation

Rail Open Forum

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Food Safety Modernization Act

- **Signed into Law – Jan. 4, 2011 (P.L. 111-353)**
- **Paradigm Shift – Biggest Change in U.S. Food/Feed Safety Law Since 1938**
- **Major Principles**
 - Covers all ‘food’ (*food for humans or animals*)
 - Emphasizes a risk-based approach
 - Prevention-based focus



Food Safety Modernization Act

- **Law Requires 50 New Regulations, Guidance Documents, Reports within three years of enactment**
- **While Timelines Mandated, Implementation Will Be Multi-Year Process**
 - Heavily dependent upon FDA resources
 - Will necessitate phased approach



Who's Covered by New Food/Feed Safety Law?

- **All Facilities Registered with FDA under Bioterrorism Act of 2002**
 - Domestic and foreign (*shipping food products for consumption in U.S.*)
 - Interstate or intrastate commerce
 - Grain elevators, grain processors, flour/corn millers, commercial feed mills, feed ingredient manufacturers, pet food manufacturers, biofuels facilities manufacturing coproducts used as feed ingredients



Who's Covered by New Food/Feed Safety Law?

- **Shippers, Transporters and Receivers of Food:**
 - Section 111, Sanitary Transportation of Food
 - Not later than 18 months after the date of enactment of this Act (July 2012), the Secretary shall promulgate regulations described in section 416(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350e(b)) – ***Sanitary Food Transportation Act of 2005***



Sanitary Food Transportation Act of 2005

- Required regulations are to prescribe appropriate practices pertaining to:
 - Vehicle sanitation
 - Packaging, isolation, and other protective measures
 - Limitations on the use of vehicles
 - Information carriers required to disclose to shippers
 - Information shippers required to disclose to carriers
 - Recordkeeping



Sanitary Food Transportation Act of 2005

- Regulations also to include:
 - A list of “nonfood products” that, if shipped in a “bulk vehicle” or other “motor vehicle” or “rail vehicle” may render adulterated any food simultaneously or subsequently transported in the same vehicle
 - The term ‘bulk vehicle’ includes a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, and any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle.



Sanitary Food Transportation Act of 2005

- **Authority to Inspect**
 - **Records:** A shipper, carrier by motor vehicle or rail vehicle, or receiver, is to on request of a FDA officer or designated employee permit the officer or employee, at reasonable times, to have access to and to copy all required records
 - **Vehicles:** DOT, in conjunction with FDA and USDA, are to establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of food, including violations of the sanitary food transportation regulations



Sanitary Food Transportation Act of 2005

- Sanitary Food Transportation Act contained no statutory deadline; FSMA does, but no FSMA-related actions to-date
- FDA issued advanced notice of proposed rulemaking in April 2010 to collect information concerning various aspects of required regulations
 - NGFA's comments emphasized :
 - The growing demand for transportation
 - Whenever possible, FDA should recognize existing cleanout procedures that are appropriate and suitable for conveyances transporting food, rather than banning the use of certain conveyances that have dual uses in hauling other products



What will Rail Shippers/Receivers and Railroads need to Consider?

- Shipment Security Standards/procedures
- Grain Inspection's role
- Impact to the supply chain
- Railroad loss and damage policy/requirements
- Railcar Quality (Covered Hoppers)
- What role does NGFA play?

