

## **Product Tracking: Impact of the Food Safety Modernization Act**

In recent years, large outbreaks hindered by complex supply chains shed light on the needs and challenges for quickly tracing products throughout the supply chain both backwards and forwards. While these outbreaks provided much of the fuel necessary to pass the most groundbreaking food safety legislation since 1938, the final Food Safety Modernization Act (FSMA) does little to immediately change regulatory requirements around product tracing. Early versions of food safety legislation addressed the challenges of tracing to various degrees, with some requiring complete supply chain visibility and the use of electronic systems. The various proposals have created some confusion around what is actually required by FSMA.

### **FDA Pilot Projects and Establishment of a Product Tracing System**

FSMA requires FDA to conduct pilot projects to explore and evaluate methods to “rapidly and effectively identify recipients of food” and appropriate technologies to prevent or mitigate a threat. FDA has tasked the Institute for Food Technologists (IFT) with conducting the pilots. FDA is required to submit a report to Congress on the pilot findings by July 2012. FDA is also required to gather additional data on the costs and benefits of product tracing technology and the feasibility of technology for different sectors of the industry.

### **New Recordkeeping Requirements for High-Risk Foods**

FSMA allows FDA to required additional records to be maintained for foods determined to be high-risk in order to facilitate tracking and tracing. FSMA specifies what FDA must consider when identifying these foods, such as the historical association with outbreaks and the health and economic impacts of illness attributed to the foods. By January 2012, FDA will publish a list of those foods that will be considered to be high-risk for the purposes of tracing (note – this may not be what the FDA considers to be high risk for inspectional or other purposes) and by January 2013 will publish a regulation outlining the additional requirements.

### **Limitations of a Product Tracing Program**

While FSMA allows for the establishment of the product tracing system within FDA, and allows FDA to set additional recordkeeping requirements for high risk foods, it does place several limitations on FDA’s authority. The requirements:

- Must relate only to information that is reasonably available;
- May not prescribe a specific technology for maintaining records;

### **About Leavitt Partners**

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- Must ensure that benefits outweigh the cost of compliance;
- Must be scale-appropriate;
- Must minimize the number of different requirements for facilities that handle multiple types of food;
- Must not require, to the extent possible; a facility to change their existing business system;
- Must not require a full pedigree, a record of the full distribution of the food
- Must not require firms to track product downstream through the supply chain beyond the immediate recipient and
- Must not require product tracking to the case level.



### **The Bottom Line**

The bottom line is that the requirements in FSMA do little to impact the existing requirements to know where product came from (one back) and to where you shipped product (one up) and to ensure there is internal tracking in your own facility. Future requirements based on the pilots will likely result in more specific requirements on which records have to be kept for tracking purposes, although these requirements may be limited to those foods designated as “high risk”. However, to ensure brand protection and maintain a position as an industry leader, it is important to have an understanding of your complete supply chain to be able to quickly identify when you are impacted by a potential threat and identify and quickly contain any potentially impacted product. A clear understanding of your full supply chain can save both your brand name and your bottom line.

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