

Theme Overview: Producer Impacts of the Food Safety Modernization Act

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Articles in this Theme:

- **The Food Safety Modernization Act and Production of Specialty Crops**

Luis A. Ribera, Fumiko Yamazaki, Mechel Paggi and James L. Seale, Jr.

- **The Food Safety Modernization Act and the Marketing of Fresh Produce**

Alba J. Collart

- **The Food Safety Modernization Act and Agricultural Imports**

Amanda M. Countryman

The Food Safety Modernization Act (FSMA), P.L. 111-353, is the most significant reform of the U.S. food safety laws in over 70 years. After less than two years in Congressional development, it was signed into law by President Obama on January 4, 2011. The law shifts the focus from responding to contamination to preventing it. The “Final Rule” was published on November 27, 2015, becoming effective on January 26, 2016. The lengthy period of time in rule development is, in part, explained by the complexity of our food supply system, and the implications for food safety from farm-to-table. Adding to the challenge is a decentralized division of labor for ensuring a safe food supply among governmental agencies. The modern food supply system is a complex and diverse supply chain, including significant imports, science-based knowledge, and an engaged consumer. While potential benefits have been at least partially documented, the benefits of safer food are not without cost. Some of the costs will initially be borne by the agricultural sector. This collection of articles in *Choices* focuses on likely impacts on the agricultural sector due to implementation of the FSMA rules.

Historical Perspective on Food Safety Policy

The federal government food safety mission began in 1906 following the investigative reporting of Upton Sinclair, whose book *The Jungle* exposed the unsanitary conditions that existed in the Chicago meat packing business. The Pure Food and Drug Act (PFDA), prohibiting adulteration, and the Meat Inspection Act (MIA), placing federal inspectors in meat processing plants, became law on the same day. The U.S. Department of Agriculture (USDA) was assigned the initially responsibility for food safety, which is now shared with the Food and Drug Administration (FDA); and for seafood only, the responsibility lies with FDA and the Department of Commerce (DOC). Among Washington insiders, industry, and food safety advocates, the government home for food safety regulation, continues to be hotly debated. Historically, the USDA and the FDA have contended that they are better equipped to regulate seafood than the DOC (Merrill and Francer, 2000).

From its beginnings, there was conflict within USDA over how tightly the PFDA should be enforced (Merrill and Francer, 2000). In 1938, federal food safety law was substantially expanded with an emphasis on curbing the marketing of untested drugs, the inclusion of unsafe food additives, false labeling, and the lack of ingredient labels. However, it was not until 1940 that FDA was moved from USDA to the Federal Security Agency (FSA) with the Public Health Service. In 1953, the FSA became the Department of Health, Education and Welfare (HEW) and in 1979 it became the Department of Health and Human Services (HHS)—where FDA is housed today. Responsibility for pesticide regulation was moved from USDA to the Environmental Protection Agency (EPA) in 1970. Rounding out the list of primary agencies regulating food safety, the Center for Disease Control (CDC) was established in 1947 with a primary objective of fighting malaria (CDC, 2011).

The history of the governmental organization of food safety regulation is relevant to the focus of this theme because the historical perspective helps explain the complexity underlying the responsibilities as defined by the FMSA. Under FSMA, the responsibility for food safety in 2016 rests with five primary agencies (Rawson and Vogt, 1998).

- USDA's Food Safety and Inspection Service (FSIS), is responsible for administering the Federal Meat Inspection Act, the Poultry Products Inspection Act, the Egg Products Inspection Act, and the Humane Methods of Slaughter Act.
- The FDA is responsible for ensuring that domestic and imported foods—except for meats and poultry—are safe, sanitary, nutritious, wholesome, and honestly labeled. Since 1938, these responsibilities have been carried out under the statutory rubric of prohibitions of adulteration and misbranding, which itself spoke for the need for updating food safety regulation (Johnson et al., 2010).
- The DOC's National Marine Fisheries Service maintains a cooperative inspection agreement with FDA, the primary agency responsible for ensuring the safety, wholesomeness, and labeling of domestic and imported seafood products. For the approximately 20% of the fish that is consumed domestically, U.S. based fishing vessels and plants are inspected on a user-fee basis. A primary inspection activity involves conformance with FDA's HACCP guidelines for seafood. FDA maintains responsibility for inspecting seafood import facilities.
- The EPA has the responsibility for ensuring that chemicals used on crops do not endanger public health. It accomplishes this task by the statutory requirement that all new pesticides be registered.
- The CDC, like the FDA, is an agency within HHS. Its Food Safety Office (FSO) has primary responsibilities for prevention of foodborne illness diseases. Its main activities include: supporting epidemiology, laboratory, and environmental health capacity at the state and local levels; providing information and recommendations based on public health surveillance and epidemiology through programs such as FoodNet; and maintaining links with FDA and USDA (CDC, 2014).

Many other agencies could be listed as affecting food safety. For example, the USDA's Animal and Plant Health Inspection Service (APHIS) has responsibilities for protecting the health of animals and plants from domestic and international sources. In addition to protecting the food supply, APHIS protects

against the transmission of animal diseases, some of which are transmittable to humans (Knutson and Ochoa, 2007). The Organic Foods Production Act of 1990 administered by the USDA Agricultural Marketing Service (USDA-AMS), authorize the establishment of standards for the production of organic standards for organic foods. Ironically it gives little or no attention to the safety of organic products. The USDA-AMS also offers, on a user-fee basis, third-party inspection audits for compliance either public or private sector food safety standards. At the state level, the California Department of Food And Agriculture established the California Leafy Green Products Handler Marketing Agreement (LGMA) in 2007 as a cooperative public-private sector good agricultural practices (GAP) audit program to assist in cubing foodborne illness outbreaks in fresh leafy green produce (LGMA, 2016). Under the LGMA over 100 handlers, representing approximately 99% of the volume of California leafy greens, have committed themselves to sell products grown in compliance with the food safety practices through a system of mandated audits.

Theme Articles

The articles in this theme analyze the potential impacts of FSMA largely from the producer perspective rather than the consumer or public good perspective. The articles focus on the impacts of FSMA on the production, marketing, and imports of produce rather than the benefits of reduced foodborne illness to consumers or the economy, at large.

The Ribera et al. article focuses on the potential economic impacts of the FSMA on the profitability of domestic production of specialty crops. In particular, discussion revolved around the types of farms that would be exempt from FMSA. Moreover, the article discusses the potential economic impact by farm size and how economies of scale play an important role in minimizing the impact of FSMA compliance costs.

The Collart article highlights implications of the FSMA on the marketing of fresh produce in the United States. The discussion centers on major implications in terms of costs and benefits, market structure, and public health concerns, with particular attention to the new produce safety rule.

Finally, Countryman’s paper provides an overview of the provisions in the FSMA that apply to food imports. The Foreign Supplier Verification Programs (FSVP) for Importers of Food for Humans and Animals, as well as the implications, costs, and exemptions relating to food imports are discussed.

For More Information

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