

ALERTS

Food, Drug & Device Law Alert - FDA Issues Proposed Rule On Sanitary Transportation Of Food

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The FDA recently issued the last of the seven major proposed rules required by the Food Safety Modernization Act (FSMA), one governing the safe transportation of food that actually has its origins in the Sanitary Food Transportation Act of 2005. According to FDA's summary, the proposed rule will help maintain the safety of human and animal food during transportation by establishing conditions, practices, tracking, and record-keeping governing the sanitary transportation of food.

The highlights of the proposed rule include establishing requirements for:

- **Vehicles and transportation equipment:** The design and maintenance of vehicles and transportation equipment to ensure that they do not cause the food that they transport to become contaminated.
- **Transportation operations:** The measures taken during transportation to ensure food is not contaminated, such as adequate temperature controls and separation of food from non-food items in the same load.
- **Information exchange:** Procedures for exchange of information about prior cargos, cleaning of transportation equipment, and temperature control between the shipper, carrier, and receiver, as appropriate to the situation. For example, a carrier transporting bulk liquid non-dairy foods would want to ensure that vehicles that have previously hauled milk will not introduce allergens into non-dairy foods through cross contact.
- **Training:** Training of carrier personnel in sanitary transportation practices and documentation of the training.
- **Records:** Maintenance of written procedures and records by carriers and shippers related to transportation equipment cleaning, prior cargos, and temperature control.
- **Waivers:** Procedures by which the FDA will waive any of these requirements if it determines that the waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health and that it is in the public interest.

The proposed rule provides the general date for compliance is one year after publication of the final rule. Small businesses other than motor carriers who are not also shippers and/or receivers employing fewer than 500 persons and motor carriers having less than \$25.5 million in annual receipts would have to comply within two years after the publication of the

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final rule.

Interested parties have until May 31, 2014 to submit comments on the proposed rule.

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