

**Summary of Key FSMA Effective Dates**  
Prepared by Hogan Lovells US LLP, February 2011

The FSMA establishes the following effective dates for statutory requirements and required dates for FDA establishment of new programs: 1/

- Immediately:
  - Expansion of records access under the Bioterrorism Act to “any other article of food that the Secretary believes is likely to be affected in a similar manner.” (§ 101)
  - FDA can require mandatory recalls. (§ 206)
  - Whistleblower protections are effective. (§ 402)
- 90 Days:
  - FDA must modify its website to include a consumer-friendly search engine with recall information. (§ 206).
- 180 Days:
  - Suspension of registration provisions become effective (unless FDA issues regulations sooner). (§ 102) 2/
  - Administrative detention amendment becomes effective. (§ 207)
  - Prior notice amendment becomes effective. (§ 304)
  - FDA must implement a strategy for smuggled food. (§ 309)
- FY 2011:
  - Reinspection fees, mandatory recall fees, and voluntary qualified importer fees may be imposed. Note that FDA must publish the fees in the Federal Register at least 60 days in advance and fees must be provided for by Congress in the appropriations process (which has not yet occurred). (§ 107)
  - Export certificate fees may be imposed at rates established in preexisting law (\$175). Fees must be provided for by Congress in the appropriations process. (§ 107)
- 1 Year:
  - FDA must publish a list of acceptable “conspicuous locations” for grocery store posting of recall notices. (§ 211) Note that FDA could implement grocery store posting of recall notices at any time.
- 18 Months:
  - Preventive controls requirements become effective. Note that under the statute, these requirements are effective after 18 months even if FDA has not yet issued regulations. (§ 103)
  - FDA may require additional information to be submitted to the Reportable Food Registry within 18 months after enactment. (§ 211)
  - FDA is required to implement a voluntary qualified importer program. (§ 302)
- Fall 2012:
  - Biennial registration renewal required, between October 1 and December 31. (§ 102)
- 2 Years:
  - FDA must establish a laboratory accreditation program. (§ 202)
  - Foreign supplier verification program requirements become effective (even if regulations have not been issued). (§ 301)
  - FDA must establish an accreditation system for third-party auditors. (§ 307)
- 30 Months:
  - Certain food required to be tested by accredited labs. (§ 202)

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1/ All dates are in reference to the date of enactment, January 4, 2011.

2/ Note that the provision on suspension of registration becomes effective in 180 days or on the date that FDA issues an interim final rule, whichever is sooner. Therefore, it is possible that this provision could become effective in less than 180 days.

## Required Dates for Rulemakings and Guidance Documents:

The FSMA establishes the following required dates for FDA rulemakings:

- 120 days:
  - Prior Notice (interim final rule) (§ 304)
  - Administrative detention of food (interim final rule) (§ 207)
- 180 days:
  - Suspension of registration (interim final rule) (§ 102) 3/
- 9 months:
  - Preventive controls for on-farm activities that constitute “processing” (proposed rule; final rule required within 9 months of the close of the comment period) (§ 103)
- 1 year:
  - Foreign supplier verification program (final rule) (§ 301)
  - Produce safety (proposed rule regarding “high risk”; final rule required within 1 year of close of comment period) (§ 105)
- 18 months:
  - Preventive controls (final rule) (§ 103)
  - Food defense (final rule) (§ 106)
  - Sanitary transportation of food (final rule) (§ 111)
- 2 years:
  - Traceability (notice of proposed rulemaking rule for “high risk” facilities) (§ 204)

The law sets the following timeline for required guidance documents:

- 180 days:
  - New Dietary Ingredients submissions (§ 113)
- 1 year:
  - Produce safety (updated Good Agricultural Practices) (§ 105)
  - Food defense (§ 106)
  - Foreign supplier verification program (§ 301)
- 18 months:
  - Voluntary qualified importer program (§ 302)
- No Deadline:
  - Preventive controls (§ 103)

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3/ Note the statute does not provide a statutory deadline for rulemaking, but the provision on suspension of registration becomes effective in 180 days or on the date that FDA issues an interim final rule, whichever is sooner.