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FDA requirement for tracking food and feed relative to Public Health Security and Bioterrorism Preparedness and Response Act of 2002

There has been some concern caused by recent press releases about the need to track hay and grain sold off the farm relative to the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. The requirements take effect for June 9 for operations with more than 10 employees and Dec 9, 2006 for all other operations. The FDA requirements are stated in a fact sheet at <http://www.cfsan.fda.gov/~dms/fsbtac23.html>.

The National Hay Association and others have checked requirements carefully with the FDA and found that the recording requirements have been vastly overstated in the press. Requirements are “one up and one down” – a person should keep track of who/where commodities are bought from and who/where commodities are sold to.

Farms are specifically exempt. FDA is proposing to define "farm" in Sec. 1.227(c)(3) in part as "a facility in one general physical location devoted to the growing of crops for food, the raising of animals for food (including seafood), or both...Some examples of farms include: apple orchards, hog farms, dairy farms, feedlots, or aquaculture facilities". The definition of "farm" includes: "(i) Facilities that pack or hold food, provided that all of the food used in such activities is grown or raised on that farm or is consumed on that farm; and (ii) facilities that manufacture/process food, if all of the food used in such activities is consumed on that farm or another farm under the same ownership...Facilities that engage in manufacturing/processing, packing, or holding of food that are not described in the definition of "farm" must register ...A farm that manufactures/processes, packs, or holds food is not required to register with FDA, if all of the food used in such activities is consumed on that farm or another farm under the same ownership. For example, a farm that manufactures/processes animal feed from ingredients obtained off the farm for consumption by animals on the farm would be exempt because most farms that raise animals engage in this activity."

Farmers who simply bale hay for sale do not have to register their facilities or maintain records. The FDA does not consider baling hay as processing. All the FDA needs is a receipt in a receipt book showing the person (or entity) that bought the hay and the quantity that was purchased. There is no requirement that hay producers keep track of all the bales and where they go. Records that are maintained for tax purposes which show that a sale was made and to whom the sale was made should be sufficient for compliance. The new FDA rule will not require a farmer to change recordkeeping as long as details of the feed sale are recorded.

In particular, there is no need for being able to track lots of hay or grain back to individual fields as some have indicated.

Thus, the news releases have been much ado about nothing. No additional records for hay or grain sales are required beyond what most keep for tax records.

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