

2014 NSA Summer Seminar — Presentation Summary —

'Impact of the Food Safety Modernization Act on the Sunflower Industry'

Sandra Morar, Attorney, Omaha, Neb.



You've likely heard of the Food Safety Modernization Act (FSMA), but how much do you know about how it will affect you as a sunflower grower? Sandra Morar, an attorney with the firm McGrath North in Omaha, Neb., says the impact will be huge.

"I can't emphasize enough how much the Food Safety Modernization Act affects sunflower producers," said Morar at the National Sunflower Association Summer Seminar in Deadwood, S.D., in late June.

This is the first major overhaul of the nation's food safety practices since 1938. The idea is to ensure the U.S. food supply is safe by shifting the focus of federal regulators from responding to contamination to

preventing it. The FSMA gives the Food and Drug Administration (FDA) new authority to regulate the way foods are grown, harvested, processed and transported. It includes, to date, eight proposed new regulations, and while all of them will impact sunflower producers to some degree, the Produce Safety Rule could have the biggest impact. The Produce Safety Rule would, for the first time, apply legal restraints on farmers for food safety.

"The Rule is totally impractical," Morar said. "How do you keep wild animals out of streams? How do you keep birds from flying over sunflower fields? It doesn't make any sense."

The proposed Produce Safety Rule covers most fruits and vegetables in their raw or unprocessed state. It would not apply to raw agricultural commodities that are rarely consumed raw, those produced for personal or on-farm consumption, those grown as oilseeds, or grains destined for commercial processing. Barley, corn, sorghum, wheat, soybeans and cottonseed are examples of exempt produce because they are grains grown to be further processed. The Rule is unclear whether sunflower would be exempt, and Morar has been working with NSA and FDA to ensure they are designated exempt.

"Sunflower should be exempt, plain and simple," said Morar. "First, confection sunflower seeds are rarely eaten raw. In addition, since most sunflower is grown as oilseeds they should be regulated like other oilseeds. Finally, sunflower is grown, harvested and stored just like other grains. Sunflower falls under all three exemptions, so needs to be exempt from this Rule."

But this isn't the only rule producers should be concerned about. Morar calls the proposed transportation rule a "sleeping giant" that will be a huge burden on the industry. "Even if you don't own your own trucks, according to this rule anyone shipping in bulk containers, including farmers and processors, would still be responsible for making sure the trucking company follows your food safety protocols," explained Morar. "The rule would require shippers to provide written specs of how the product is to be handled and rules about what was in the truck prior to your sunflower."

The two proposed rules regarding safe processing of food for humans and for animals are more cause for concern, according to Morar.

The key, Morar said, is to get involved.

"The FDA has admitted they messed up. They have rewritten parts of the Produce Rule, and another comment period is coming," Morar observed. "But, the FDA only wants to reopen the parts that have been changed. We need all of the rules to be open again for comment."

NSA has been working in Washington, D.C., to convince the FDA to reopen the entire rule, but everyone involved in the industry needs to get involved. "The food industry had over 36,000 comments on the Produce Rule alone the first time around. We need even more than that this time, particularly from the sunflower industry and other commodity groups," said Morar. "Other industries should be concerned, even if they currently have an exemption. This is a big issue that could have a domino effect. We need to be the town criers. The more comments we can file with the FDA, the better our chances of being heard."

NSA will be submitting detailed comments to the FDA and urges all growers and companies in the industry to submit comments as well when the time comes. Watch for updates in future issues of this magazine and online at www.sunflowernsa.com. — Jody Kerzman

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