

## Updated: FDA Issues New Safety Requirements for Food Transporters

by Practical Law Commercial Transactions

Published on 06 Apr 2017 • USA (National/Federal)

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*The Food and Drug Administration (FDA) has published a new final rule under the Sanitary Food Transportation Act of 2005 (SFTA) and the Food Safety Modernization Act of 2011 (FSMA). This new final rule requires food transporters to use sanitary transportation practices to ensure that the food they handle is safe and unadulterated. The FDA recently published three waivers from the requirements of this rule.*

**This resource was updated on April 6, 2017 to reflect a new final rule granting waivers to certain businesses (see [Waivers](#)).**

On April 6, 2016, the Food and Drug Administration (FDA) published a new final rule to establish safety requirements for parties that transport food ([Sanitary Transportation of Human and Animal Food, 81 Fed. Reg. 20092-01 \(April 6, 2016\)](#)) (Sanitary Transportation Rule). The FDA issued this rule under the Sanitary Food Transportation Act of 2005 (SFTA) and the Food Safety Modernization Act of 2011 (FSMA) to ensure that food is not transported under conditions that could make it adulterated and unsafe.

The Sanitary Transportation Rule applies to the following parties engaged in the transportation of food:

- Shippers.
- Loaders.
- Carriers by motor vehicle and rail vehicle.
- Receivers.

The new regulations created by the Sanitary Transportation Rule are meant to curb practices that create food safety risks, such as the failure to:

- Properly refrigerate food that requires temperature control.
- Adequately clean vehicles between loads.
- Otherwise properly protect food during transportation.

In particular, the new regulations describe:

- Which transporters are subject to these safety requirements.
- The safety requirements for vehicles, transportation equipment, and transportation operations.
- The training requirements for carriers engaged in transportation operations.
- The record retention requirements for shippers, receivers, loaders, and carriers engaged in transportation operations.
- The circumstances under which the FDA will waive food transportation safety requirements.

(21 C.F.R. §§ 1.900 - 1.934.)

The Sanitary Transportation Rule is flexible and allows the transportation industry to continue to use industry best practices for cleaning, inspecting, maintaining, loading and unloading, and operating vehicles and transportation equipment to ensure that food is transported under the conditions and controls necessary to prevent adulteration linked to food safety.

This rule becomes effective on June 6, 2016.

For more general information on FDA regulations for the production and distribution of food products, see [Practice Note, FDA Food Regulations](#) and [FDA Food Regulations Checklist](#).

## Waivers

On April 6, 2017, the FDA published a final rule waiving certain businesses that are subject to the requirements of 21 CFR part 1, subpart O from the Sanitary Transportation Rule's requirements (*[Waivers From Requirements of the Sanitary Transportation of Human and Animal Food Rule](#)*, 82 Fed. Reg. 16733-01 (April 6, 2017)). This final rule provides a waiver to these businesses if they either:

- Hold valid permits and are inspected under the National Conference on Interstate Milk Shipments' Grade "A" Milk Safety Program, but only when engaged in transportation operations involving bulk and finished Grade "A" milk and milk products.
- Are permitted or otherwise authorized by the relevant regulatory authority to operate a food establishment that provides food directly to consumers (that is, restaurants, retail food establishments, and nonprofit food establishments), but only when engaged in transportation operations as:
  - receivers, whether the food is received at the establishment itself or at a location where the authorized establishment receives and immediately transports the food to the food establishment; or
  - shippers and carriers in operations in which food is transported from the establishment as part of the normal business operations of a retail establishment.
- Are appropriately certified and inspected under the requirements established by the Interstate Shellfish Sanitation Conference's National Shellfish Sanitation Program (NSSP), but only when engaged in transportation operations involving molluscan shellfish in vehicles that the State NSSP certification authority permits.

This final rule became effective on April 6, 2017.

### PRODUCTS

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