



## FSMA and Corporate Officer Liability

On January 4, 2011, President Obama signed the Food Safety Modernization Act (FSMA) into law. FSMA creates significant new criminal liabilities for food industry firms up and down the supply chain.

FSMA marks the most sweeping change to U.S. food laws since the 1930s. The biggest change applies to imported foods. Importers now have responsibility for verifying that the farm, packer or manufacturer they are sourcing food from is producing food in compliance with stringent new food safety standards. The standards apply to produce farms and manufacturing/processing and packing operations.

Failure to meet this responsibility is punishable by federal criminal penalties which can include up to one year of imprisonment and up to a \$250,000 fine for an individual. Fines are doubled for organizations.

In accordance with the U.S. Supreme Court ruling in *U.S. v. Park*, CEOs and other corporate officers can be held personally liable for misdemeanor violations of FSMA regardless of whether or not they engaged in the violation or even had any actual knowledge of it.

U.S. Food Imports is responsible conducting foreign supplier verification and more. Contact us for risk mitigation solutions.

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### The Case of *U.S. v. Park*

In 1975 the U.S. Supreme Court issued a ruling with broad implications for officers of food companies. The case involved John Park, the president of Acme Markets Inc. Park was individually charged with violating the Food, Drug and Cosmetic Act (FD&C Act) for Acme's warehousing practices.

The Supreme Court ruled that corporate officers could be held criminally liable for FD&C Act violations committed by their company without participating in or even having awareness of

the violations. Park's conviction was upheld simply by virtue of his position of authority within the corporation. FSMA created six new kinds of criminal violations under the FD&C Act including failure of importers to properly verify the food safety practices of foreign suppliers.

To reduce criminal liability exposure business can work with importers such as USFI who have responsibility for conducting foreign supplier food safety verification and more.