

Regulatory Alert: FDA Recognizes Canada as Having a Comparable Food Safety System

Imports from Canada Exempt from Most Foreign Supplier Verification Program Requirements
May 5, 2016

On May 4, 2016, the U.S. Food and Drug Administration (FDA) announced that the agency has recognized Canada as having a comparable food safety system to that of the United States. Canada is the second country FDA has recognized as having a comparable food safety system. The first food safety system recognized was that of New Zealand in 2012. FDA also announced that a systems recognition process is underway for Australia and the European Commission.

The consequences of systems recognition are very significant for importers of food. Imports from countries that have food safety systems recognized by FDA are less likely to face scrutiny at the border. Furthermore, imports of finished food/food not intended for further manufacturing or processing from such countries are not subject to most requirements under the Foreign Supplier Verification Program (FSVP) Rule. The FSVP Rule, issued to implement section 301 of the Food Safety Modernization Act (21 USC § 384a), requires importers to verify the food safety practices of the foreign suppliers they source from. Foods not intended for further manufacturing/processing that are imported from countries FDA has recognized are not subject to the following requirements under the FSVP Rule:

- Conducting a hazard analysis (§1.504)
- Evaluation of foreign supplier's performance and risk posed by a food (§1.505)
- Foreign supplier approval (e.g. approval pursuant to written approval procedures (§1.505))
- Foreign supplier food safety verification activities (§1.506)
- Foreign supplier verification program corrective actions (§1.508)

Such foods still require a U.S. person to serve as the FSVP importer as declared in entry documents and additional requirements apply:

Before importing foods from a supplier located in a country whose food safety system has been recognized by FDA as being comparable or equivalent to that of the U.S. and annually thereafter, the FSVP importer must document that the foreign supplier is in, and under the regulatory oversight of the country recognized by FDA, and that the food is within the scope of the recognition. Importers must also determine and document before importing the food that the foreign supplier is in good compliance standing with the foreign food safety authority. Importers have an ongoing requirement to monitor the compliance status of the foreign supplier. If information indicates that food safety hazards are not being significantly minimized or

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prevented, then the importer must take prompt corrective action which must be documented and may include discontinuing the use of the foreign supplier.

U.S. Food Imports LLC provides foreign supplier verification services and other food import compliance solutions. Please contact Erik Lieberman at elieberman@usfoodimports.com or (202)765-1800 if you have questions or would like additional information.