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CIAA Bulletin

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Update**

FDA Issues Temporary Policy for Food Importers in Light of COVID-19 Outbreak

On March 17, 2020, the U.S. Food and Drug Administration (FDA) issued [guidance](#) to food importers in response to the COVID-19 pandemic. In the guidance, FDA stated it will temporarily not enforce supplier verification onsite audit requirements for importers under the Food Safety Modernization Act (FSMA) so long as other supplier verification methods are used instead.

The guidance applies to the supplier verification requirements of the Foreign Supplier Verification Programs (FSVP) rule that require importers to conduct supplier verification activities based on the hazard analysis conducted as part of their written FSVP.

This guidance was issued in light of domestic and foreign governments instituting travel restrictions and advisories in an effort to curb the spread of COVID-19. FDA understands that following these travel advisories may impact the ability of food manufacturers and FSVP importers to conduct onsite audits of their suppliers.

Specifically, FDA does not intend to enforce the requirement for an onsite audit in the following circumstances:

- A FSVP importer has determined that an onsite audit is the appropriate verification activity for an approved supplier, as reflected by its written FSVP;
- The supplier that is due for an onsite audit is in a region or country covered by a government travel restriction or travel advisory related to COVID-19;
- Because of the travel restriction or travel advisory, it is temporarily impracticable for the FSVP importer to conduct or obtain the onsite audit of the supplier; and
- The FSVP importer temporarily selects an alternative verification activity or activities, such as sampling and testing food or reviewing relevant food safety records, and modifies its FSVP to incorporate the alternative activity or activities. The alternative verification activity or activities are designed to provide temporary assurance that the hazard requiring a supply-chain-applied

control (or, for FSVP, the hazard that is being controlled by the foreign supplier) has been significantly minimized or prevented during the period of onsite audit delay.

FDA expects FSVP importers to resume onsite audits within a reasonable period of time after it becomes practicable to conduct such audits. FDA also expects FSVP importers to update their FSVP to reflect the re-initiation of onsite audits.

On March 18, 2020, FDA hosted a briefing for stakeholders to discuss food safety and food supply questions related to COVID-19. FDA will provide an overview of current activities, respond to stakeholders' concerns identified in recent days, and highlight important FDA resources in response to COVID-19 pandemic. The call was recorded and is [available online](#).

During the call, FDA reiterated that there is no evidence of food or food packaging being associated with transmission of COVID-19. FDA also stated that in addition to the previously announced suspension of foreign facility inspections, the agency is also suspending all routine domestic inspections. FDA will only conduct mission critical inspections, but will take into consideration geographic restrictions on travel instituted by state and local governments. FDA also stated that unlike usual practice, most inspections will be pre-announced.

Further, FDA underscored the importance of food manufacturing in the U.S. as it is deemed a critical infrastructure by the Department of Homeland Security. Therefore, any closures announced by state or local governments will not apply to food processing or foods in transit. Should a food importer have questions regarding this or a, the facility or its parent company should contact the Federal Emergency Management Agency (FEMA) National Business Emergency Operations Center.

FDA has also created a [Frequently Asked Questions](#) on Food Safety and the Coronavirus Disease 2019 (COVID-19).

We will continue to monitor developments related to COVID-19. Should you have any questions regarding this alert, contact the Husch Blackwell LLP team at CIAAGeneralCounsel@huschblackwell.com.

Dates to Remember

July 2, 2020

Last day for an exporting country that is not designating importers for calendar year 2020 to notify FAS

August 31, 2020

Last day to enter dairy products into U.S. Customs territory that may be used to qualify and establish eligibility for a calendar year 2021 license.

* If a deadline date falls on a Saturday, Sunday, or Federal holiday, the deadline will be the next business day (Section 6.36(a) of the Dairy Tariff-Rate Import Quota Licensing Regulation). This does not apply to dates of entry for eligibility.

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