

Article Information

Author: Simon Venus

Service: Corporate & Commercial, Foreign Investment & Trade

Sector: Agriculture & Food

Exporting food to the USA - upcoming regulatory changes

Future issues faced by Australian exporters of food into the United States, particularly in light of the proposed amendments to US importation laws. These changing provisions will be particularly relevant for small to medium-sized exporters.

The Australian food export market (and in particular, smaller producers), manufacturers and wholesalers will experience various compliance changes as the U.S. Food and Drug Administration (FDA) rolls out the Food Safety Modernization Act (FSMA). These changes will come into effect at varying timeframes between 2015 and 2016. The FDA has recently announced it would be “further enhancing” four proposed Rules, addressing policies on:

- Product Safety
- Preventative Controls for Human Food
- Preventative Controls for Animal Food
- Foreign Supplier Verification Programs (FSVPs).

What does this mean to Australian food export businesses?

The proposed Rules concerning FSVPs are relevant to the Australian food export sector. In short, the FDA will have the authority to block foods from facilities and/or countries that refuse inspection. The Rules are aimed to provide the US market with more control over the potential risks associated with foods and foreign suppliers. The proposed Rules additionally place an obligation *on importers* to verify the safety of food from their suppliers (such as Australian exporters) and the requirement to evaluate potential risks and hazards in their operations.

For Australian food producers, manufacturers, farmers and wholesalers, food quality regulation is an industry-wide norm brought about through agreements between the States and Territories and that of the Australian and New Zealand governments. These laws regulate and enforce standards relating to systems such as food safety, labelling, approved suppliers, calibration programs and product recalls.

Most of Australia’s major food industry players would be familiar with various forms of quality control such as food safety plans, third-party accreditations, GMPs and some form of Hazard Analysis Critical Control Points (HACCP). Whilst some of these systems are mandatory, others are not and this is where the small food exporter can become affected by the FSMA and the proposed Rules. Accordingly, it is expected that exporters currently implementing preventative forms of quality control will be the least affected by the FSMA whilst those without established protocols may experience challenges.

In summary, it would be prudent for Australian companies wishing to export into the US market to implement sound regulatory practices, bringing them in line with the anticipated FDA-proposed regulations. It would be advisable to seek legal advice relating to compliance with anticipated export provisions as well as evaluation of current food safety management programs.