

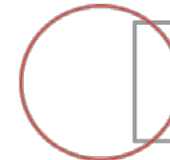


Groupe Export agroalimentaire
Agri-Food Export Group
QUÉBEC-CANADA

THE FSVP DEMYSTIFIED

*[Foreign Supplier
Verification Program]*

The Export Group thanks Linda Labrosse, Customs Specialist, for providing the information contained in this document.



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ABOUT THE FSVP

The Foreign Supplier Verification Program (FSVP) is a new law in effect since May 30, 2017.

The new phase, which concerns companies with less than 500 employees, will come into effect on March 19, 2018.

This program is part of the Food Safety Modernization Act (FSMA), signed in 2011, and is a **major reform**, administered by the FDA (Food & Drug Administration), for **the import of agri-food products into the United States**.

Its goal ? Ensuring the safety of the food chain.

Several FSVP effective dates are published, the two main ones being May 30, 2017 for foreign suppliers with 500 full-time employees and more, and March 19, 2018 for suppliers with less than 500 employees.

See all details of the program:

<https://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm361902.htm>



A grayscale photograph of the Golden Gate Bridge, showing its iconic suspension towers and cables. The bridge spans across the water, with a hazy background. The image is partially obscured by a blue horizontal bar at the bottom.

WHO IS TARGETED BY THIS PROGRAM ?

The US customer or the foreign supplier ?

First, it is important to distinguish the non-resident importer of record, who is responsible for customs clearance, from the FSVP importer, who is in charge of this particular program.

Indeed, customs allows a foreign entity to become a record importer. However, under the FSVP program, the FDA does not allow this same foreign entity to become a FSVP importer.

In short, the American customer must vouch for the products he imports. He must keep a record of his suppliers and each of the products and ensure that they meet US standards for food safety and security.

THREE EXPORT SCENARIOS

Sales

In this situation, the FSVP importer is the US customer

The US customer is considered as the owner of the imported or consigned merchandise.

Even if the US customer requests it, the foreign entity can not become the FSVP importer in this scenario. If the US customer refuses to be identified as a FSVP importer, the shipment will not be accepted by Customs and the FDA.

Some exporters think they can mandate a US agent to become a FSVP importer instead of their customers, but this is not allowed when the goods are sold.

For specific cases, it is better to consult a specialized lawyer who can support you.

Trade shows and samples

In this situation, the FSVP importer is the US agent

When the exporter participates in a trade show, the exported merchandise is not sold.

It is therefore necessary to mandate an American agent to be represented as a foreign company in the United States.

This agent will be identified as a FSVP importer on the customs invoice.

This is the same principle for sending samples, unless they total less than 800 USD.

Annual fees and shipping are to be paid to the agent who represents the company.

Shipment of less than 800 USD - Section 321 *

In this situation, the FSVP does not apply

If the value of the merchandise is less than 800 USD, the exporter may enter SECTION 321 on his customs bill, whether the merchandise is sold or not.

The FSVP is exempt from the procedure.

Attention: Section 321 applies for one shipment per day, per customer, and declared at fair value.

Section 321 does not apply in the case of any merchandise of a class or kind provided for in any tariff-rate quota.

Certain other customs and FDA requirements apply, including the requirement to submit a "prior notice" prior to shipment.

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PRODUCTS NOT COVERED BY THE FSVP

Certain categories of imported food are not covered by FSVP. These include :

- Juice, fish, and fishery products subject to and in compliance with FDA’s Hazard Analysis and Critical Control Point (HACCP) regulations and certain ingredients for use in juice and fish and fishery products subject to the HACCP regulations;
- Alcoholic beverages;
- Meat, poultry and egg products regulated by the U.S. Department of Agriculture
- Low-acid canned foods;
- Food sent for research or evaluation, or for personal consumption, or transhipped, or which will be processed for export or returned American products without having received added value abroad.

WHAT TO DO ?

In the case of **regular sales**, the exporter must communicate with his US customers and sign with them a letter of consent whereby the customer agrees to be identified as a FSVP importer and, in return, by which the exporter ensures that its products comply with American standards.

In the case of **trade shows**, the exhibitor must find a FSVP agent who will be responsible for the merchandise imported to the United States for the show.

This simplified procedure applies to products of Canadian origin. In this case, the following information must be added on the commercial invoice: the name of the FSVP importer, his email and his Data Universal Number System (DUNS).

If the products are manufactured elsewhere, the liability is increased and the written exchange of consent is not enough.



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GUIDANCE DOCUMENTS

Here is a list of publications made available by the FDA to guide you in how to comply with the FSVP.

[Foreign Supplier Verification Program \(FSVP\)](#)

[FSVP compliance guide for small entities](#)

[Guidance on the term “Same Level of Public Health Protection”—used in FSVP and Produce Safety Regulations](#)

[“Chapter 15: Supply-Chain Program for Human Food Products” of the Preventive Controls for Human Food](#)

[FSVP enforcement discretion for grains imported as raw agricultural commodities](#)

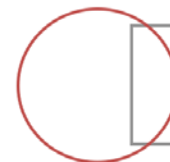


FOR MORE INFORMATION

The Export Group is holding a training session on the subject on February 28, 2018.

[Subscribe now!](#)

You can also contact your customs broker or a customs compliance expert like [Mrs. Linda Labrosse.](#)



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