No. 1-595/FSSAI/Imports/2013
Food Safety and Standards Authority of India
Ministry of Health & Family Welfare,
Govt. of India

FDA Bhawan, Kotla Road
New Delhi-110002
Dated: 10th January, 2014

To,

All Authorized Officers

Subject: General Guidelines for Authorized Officers –reg

I am directed to inform that several instances have come to the notice of FSSAI HQ from which it appears that there is lack of clarity in many areas of the food import clearance system followed by FSSAI. Several of such issues have been compiled and brought at one place for a continued uniform and transparent application of the procedures across all ports where FSSAI is looking after the import clearance of food articles. Please note that the different points under a heading (A to I) may have a correlation with points under other headings. It is necessary that the AOs and other officers and others concerned read these guidelines carefully and ensure due compliance. These guidelines support implementation of the FSS Act, Rules & Regulations made thereunder and Advisories issued from time-to-time and are intended to assist in dealing with the food articles sought to be imported. Section Heading I (Other Functions and Responsibilities) pertains only to the AOs.

You are requested to prominently display these guidelines (except Section I) on the notice board of the office of Authorized Officer and also forward a copy to the Commissioner of Customs as well as notified and referral laboratories coming under your jurisdiction.

Yours faithfully,

(S. Dave)
Advisor

To:

1. Sh. D.P.Guha, Authorized Officer, JNPT-NhavaSheva, Sea & Air Port, Food Safety and Standards Authority of India, 902, Hall Mark Business Plaza, SantDyaneshwarMarg, Opposite Guru Nanak Hospital Road, Bandra (East), Mumbai- 400 051
2. Dr. G. Srinivasan, Authorized Officer, Food Safety and Standards Authority of India, Ministry of Health and Family Welfare, C-1-D, Rajaji Bhawan, Basant Nagar, Chennai-600090

3. Sh. Anil Mehta, Authorized Officer, Food Safety & Standards Authority of India, Ministry of Health & Family Welfare, CHEB, Ground Floor, Beside FDA Bhawan, Kotla Road, New Delhi-110002
4. Sh. Ais Kumar, Authorized Officer, Food Safety and Standards Authority of India, Ministry of Health & Family Welfare, Top Floor, Mayukh Bhawan, Salt Lake, Kolkata- 700091
5. Sh. S. V. Thampy, Authorized Officer, Food Safety and Standards Authority of India, Ministry of Health & Family Welfare, First Floor, Marine Building, North End P.O, Willingdon Island, Cochin-682 003. Kerala

(5) Shiv Kumar 13/01/2014

Copy to:

1. PPS to CP, FSSAI 13/1/14
2. PS to CEO, FSSAI 13/1/14
3. Director (Codex), FSSAI 13/01/14
4. Director (QA), FSSAI 13/01/14
5. Assistant Director (Enforcement), FSSAI 13/1/14
6. Assistant Director (QA), FSSAI 13/01/14

GENERAL GUIDELINES IN RESPECT OF THE FSSAI FOOD IMPORT CLEARANCE SYSYTEM (FICS)

Several instances have come to the notice of FSSAI HQ from which it appears that there is lack of clarity in many areas of the food import clearance system followed by FSSAI. Several of such issues have been compiled and brought at one place for a continued uniform and transparent application of the procedures across all ports where FSSAI is looking after the import clearance of food articles. Please note that the different points under a heading may have a correlation with points under other headings. It is necessary that the AOs and other officers and others concerned read these guidelines carefully and ensure due compliance. These guidelines support implementation of the FSS Act, Rules & Regulations made thereunder and Advisories issued from time-to-time and are intended to assist in dealing with the food articles sought to be imported.

A. Review of Documents

1. Accept the application 100% through online FICS only. If manual application(s) is accepted, such acceptance shall be informed to Import Division, FSSAI HQ on a daily basis with justification.

2. Review of documents and processing of applications must be carried out on a first-come-first-served basis. However refrigerated consignments and air cargo will be processed on the same day.

3. While scrutinising the documents, the following aspects need to be verified: (a) Banned food items; (b) Product Approval/NOC; (c) Advisory; and (d) Documents. Any shortcomings should be immediately communicated to the importer or CHA as the case may be through online FICS. Further, verify the product approval requirements as per the Product Approval (PA) procedure dated 11.05.2013. Furthermore, verify that the food article is not from banned / prohibited / restricted sources as per the DGFT notifications, (please see dgft.gov.in/exim/2000/dn/ftpdnl/ prohibited%20items.doc, dgft.gov.in/exim/2000/dn/ ftpdnl/restrctd%20items.doc etc.) and also verify the requirements of advisories issued by FSSAI from time to time.

4. The regulatory procedures of Department of Plant Protection & Quarantine, Department of Animal Husbandry, Dairying & Fisheries, DGFT, Customs, etc. will continue to remain applicable in relevant food articles.

5. In case of food articles imported into India for scientific Research & Development purposes, NOC from FSSAI may not be required. However, if a reference is made by the Customs to FSSAI, clearance is subject to the condition that an appropriate undertaking is furnished by the importer to the effect that the articles will be exclusively used for scientific R&D purposes only, and will not be utilized or released into the domestic market for human consumption even if it is for test marketing or market research purposes. Customs should indicate that the food item imported is for scientific R&D

purposes and then the consignment should be cleared as per Advisory No. 1-17/FSSAI/T/ 2010 (Part B) dated 30th March 2012 available on the FSSAI website.

6. In case food articles imported by individuals intended for personal consumption are referred to FSSAI by the Customs authorities, these will be checked in the same manner as any other imported food article, and shall be treated out of the FICS.

7. Food articles imported by individuals/companies/firms etc. intended for display purposes in a trade fair, exhibition or elsewhere and referred to FSSAI by the Customs will be cleared on production of an affidavit that after the conclusion of the event, these food articles will be destroyed as per the prevailing law or re-exported to the country of origin. The Bill of Entry must clearly state that the food articles are intended to be imported for display purposes in a trade fair, exhibition or elsewhere as the case may be and the request to FSSAI should be accompanied by a document from the Customs authorities to such effect. Such imports shall be treated out of the FICS.

8. In respect of food articles imported by Diplomats for personal consumption, AOs shall satisfy themselves that these have been imported for personal consumption and shall be treated out of the FICS.

B. Visual Inspection of Consignments

9. Appointment for inspection of the consignment and drawl of samples must only be made on-line except where specific exemptions have been provided for. Inspection and drawl of samples shall not be carried out until confirmation of the appointment on-line with the exception of imported food articles referred to in para 6 to 8 above, as applicable.

10. While inspecting the consignments, verify the labelling requirements which should be consistent with the Act, Rules & Regulations, prevailing guidelines, instructions, advisories, etc. issued by FSSAI from time to time; but do not reject the consignment for simple and non-specified issues like MRP not mentioned on the food product.

11. The TOs/TAs shall take photographs of the labeling declarations, particularly, in case of wholesale packages and where samples are not drawn as per the existing guidelines and make notes about the labeling details and submit the same to AO for scrutiny on a daily basis. The photographs and the notes shall be retained in the file. This is subject to periodical inspection by FSSAI HQ.

12. The rectifiable defects for which stickers can be allowed to be pasted before drawl of samples will continue to be (a) veg/non-veg logo; and, (b) importer's name and address. In addition, FSSAI license number and the FSSAI logo can also be allowed to be mentioned by the way of sticker before drawl of the samples w.e.f. 1st July 2014. There is no bar on adding the FSSAI license number and the FSSAI logo before 1st July 2014. All other labeling requirements shall have to be in compliance with FSS (Packaging and Labeling) Regulations 2011.

13. The TOs/TAs shall also ascertain the need for product approval and submit the same to AO for scrutiny. The AO shall examine this and advise the importer accordingly. A record shall be maintained in the file and is subject to periodical inspection by HQ.

14. TOs / TAs shall not forward the samples to the notified laboratories until the rectifiable labelling defects have been rectified by the importer or the CHA on his behalf.

15. As per the guidelines issued by FSSAI on 23.03.2012 for imported food articles, the AOs are required to maintain a register with entry of all details of the labeling declarations of an imported food product to verify if the labeling requirements as per the guidelines are followed. These entries are required to be made by the concerned TO / TA drawing the sample(s) and is required to be scrutinized by the AO on a daily basis and place his signatures (not required if this is done through the FICS system) with date certifying that he has verified the correctness of the details. This is subject to periodical inspection by FSSAI HQ.

C. <u>Sampling and despatch of samples to Laboratories</u>

16. Draw the sample(s) from the consignment and send to the notified laboratory identified by FICS software on the same day. All product descriptions/measures must be subjected to random sampling. To facilitate sampling, the importers are advised to ensure that either information on or access to all the product descriptions is made available to FSSAI before inspection is scheduled.

17. AOs to advise the laboratories to collect samples on the same day. If these are not collected on the same day, then these should be collected in the forenoon on the next day (if the next day is falling on a holiday or last working day of the week, it is advisable to forward the collected sample(s) to the laboratories on the same day itself). The TOs/TAs should be cognizant of the cut-off time for laboratories to receive samples.

18. In cases where the food articles for which PA/NOC has been issued by FSSAI, attach the relevant Certificate of Analysis (CoA) along with samples for testing purposes only.

19. AOs to rotate TOs / TAs on different routes / locations at frequent intervals and between the AO / DO functions (preferably on monthly basis; and follow a roster system).

D. <u>Laboratory Related Functions</u>

20. The test report should be submitted by the laboratories to the AO within the time frame of 5 days; else, the delay needs justification from the concerned laboratory. This time frame applies both to the notified and referral laboratories.

21. All parameters required to be tested as specified in the FSS (Food Products Standards and Food Additives) Regulations 2011 and reported along with all the labeling declarations and unambiguous opinion thereon in Form B as prescribed in the FSS (Laboratory and Sampling Analysis) Regulations 2011.

22. The AO shall accept laboratory test reports from the laboratories *only* if it is in Form B given in the FSS (Laboratory and Sampling Analysis) Regulations 2011 and after it has been uploaded by the notified laboratory on the FICS software along with their opinion as mentioned in para 21 above.

23. The AO should scrutinize and process the Laboratory Test Report(s) as per FSS Regulations on priority. If the Test Report is not in conformity with the regulatory procedures, it should be sent back to the laboratory for compliance.

24. AOs to maintain the samples forwarding (to all the notified / referral laboratories) record on a daily basis.

25. AOs to maintain the duplicate samples until the test results are received from the notified laboratory. In case of appeal submitted by the importer, forward the same to Referral Laboratory (please also see the section on "Appeals against Rejections").

26. AOs to maintain the duplicate samples register (FICS) with details thereof on daily basis and its disposal details as and when it is effected by the AO.

27. Altering the system generated laboratory allocation is not allowed.

28. Samples must only be transported using FSSAI vehicles or vehicles provided by the laboratory.

E. Issue / Non-issue of NOC / NCC

29. AOs to forward the "system generated NOC only" to the Customs Authorities if the sample is conforming to the tested parameters. In case the food article does not conform to the tested parameters, forward the system generated non-conforming report along with laboratory test report to the Customs Authorities.

30. All stake-holders are advised to follow FSS Act, Rules/Regulations made thereunder, Guidelines and Advisories issued from time-to-time. To facilitate review the documents, a user ID and Password has been provided to a senior official of the Customs Department nominated by the Commissioner of Customs at the sea / air ports for accessing relevant information in the FICS.

31. In case the NOC is necessarily required to be issued manually except in case of consignments covered by paras 6 to 8 above, prior approval of the FSSAI HQ is required. A copy of this approval shall be sent along with the NOC to the Customs authorities.

F. Appeals against Rejections

32. AOs to submit a statement in tabular form along with copies of duly signed rejection report(s) with reasons for such rejection by the AO or laboratory (this applies both in case of notified and the referral laboratories) on quarterly basis to FSSAI HQ.

33. While rejecting the imported food article(s), AOs to ensure that relevant provisions of the FSS Act 2006, Rules/Regulations made thereunder, Guidelines & Advisories are quoted by AOs and the labs, as the case may be, before forwarding the rejection report(s) to Customs Authorities. Rejections reports shall be uploaded on the FICS on a daily basis.

34. There is no need to forward the rejection reports issued to Customs Authorities to the FSSAI HQ. System generated reports can be seen by FSSAI HQ. However, rejection report shall be shared by the Authorized Officers in the discussion forum in FICS in order to ensure transparency in implementation of the FICS.

35. While forwarding the duplicate sample based on the appeal made by the importer, AOs to quote all the tests conducted by the notified laboratory to the referral laboratory. However, results of such tests performed by the notified laboratory shall *not* be shared with the referral laboratory. However, the referral laboratory shall also submit the test results, including those conducted by the notified laboratory, along with all the labeling declarations and unambiguous opinion thereon in Form B as prescribed in the FSS (Laboratory and Sampling Analysis) Regulations 2011.

36. Time frame for references made to FSSAI, New Delhi either directly by the Authorized Officer and / or importer who appeals through Authorized Officer and / or through the Customs is as follows:

    After rejection → Accept the appeal made by the importer directly or through customs → Forward the appeal by Authorized Officer with concluding opinion or comments (wherever applicable) to FSSAI HQ within 2 days → Process the appeal at FSSAI, HQ and communicate the decisions to concerned AO.

37. It is not necessary to reproduce the content communicated by FSSAI HQ to the AOs to the importers/Customs Authorities as such or by enclosing the HQ letter; rather communicate gist of the message only.

G. Activities where Product Approval is involved

38. AOs shall not insist on or direct the importers to obtain Product Approval for intermediaries like ingredients/food additives or for primary agricultural / horticultural produce, provided the following conditions are met:

    (a) If such intermediaries are mentioned / listed in the FSS (FPS & FA) Regulations 2011 and its Appendix A for use in single form or in combination as specified;

(b) If the imported food article is an intermediary not mentioned in the FSS (FPS & FA) Regulations 2011 and its Appendix A, subject to verification of the following:
   (i) Ingredients/food additives as appearing in the valid NOC/PA issued by the PA Division of FSSAI HQ in food product(s) or as an intermediary; *and*
   (ii) Verification of the end-use declaration submitted by the importer and / or the end-user (manufacturer) to the effect that the said intermediary shall be used in the manufacture of the product for which the importer and/or end-user (manufacturer) holds a valid NOC / PA.

39. Food articles for which application for product approval has been submitted under 1(a) category of the Advisory No. P.15025/01/2013-PA/ FSSAI dated 11.05.2013 wherein the product approval sought is based on compliance of food products or its ingredients / additives with Codex standards, the request for clearance of the import consignment has to be accompanied by:

(a) Copy of evidence of acceptance of the application by the PA division of FSSAI HQ for product approval with reference to Codex standards under 1(a) category;
(b) A statement showing how the food product or the food ingredients, additives etc. sought to be imported are in compliance with the Codex standards; *and*
(c) Affidavit assuring that the food product, ingredients, additives etc. shall be recalled/ withdrawn from the market within a period of 90 days from date of communication from FSSAI to do so in the event Product Approval is not granted by FSSAI.

The AO has to examine the above documents and satisfy himself that the documents referred to above meet the intended objectives; and thereafter, draw the samples for laboratory analysis and attach CoA submitted by the importer to the laboratory for testing purpose only. The AO may, if considered appropriate, make a reference to Director (PA) at the FSSAI HQ for verification of submission of the PA application.

40. Before NOC is issued under FICS, the sample drawn from the consignment will be tested/ analyzed by the laboratory to verify the veracity of the test results as mentioned on the CoA submitted by the importer. The Laboratory as well as the AO shall also verify that the products comply with the other FSS Regulations (e.g., FSS Regulations concerning Packaging & Labeling, Contaminants, Toxins, Residues, etc.).

41. AOs shall ensure that the ingredients mentioned on the labels of the imported food articles are as per the NOC/PA granted by the PA Division of FSSAI.

42. All cases where food articles are sought to be imported against NOC(s) issued by the Product Approval Division of FSSAI HQ but these have been presented after their expiry must be referred to the HQ along with photocopy of the said NOC(s) for verification. Details of food articles covered by such consignments and a list of their ingredients must also be sent along with the reference made to the HQ.

H. Issue relating to Re-imported Food Product

43. All re-imported food products have to be examined for compliance with the FSS Regulations in the same manner as any other imported food product. In case, the food product does not comply with FSS Regulations, it may not be allowed to be cleared.

44. In case, as a result of laboratory analysis, it is noticed that the product contains contaminants for which there are no FSS Regulations, then, compliance to Codex Standards for contaminants may be referred to and advice shall be obtained for the HQ.