

Food Safety and Standards Regulations of India: Impact on Industry and the Way Ahead

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INTRODUCTION

The Food Safety and Standards (FSS) Act 2006 of India was formulated with a three-fold objective of framing an integrated food law, prioritising consumer safety and harmonising food standards with international regulations. The Food Safety and Standards Act 2006 is a new legislation that integrates eight different existing food laws, and is a comprehensive enactment aimed at ensuring public health and safety. The implementation of this Act will be a major transformation that promises to bring about a paradigm shift in the food regulatory scenario of India. The Food Safety and Standards Rules and Regulations, 2011 (FSSAR), have been enacted on 5 August 2011. This analysis presents the highlights of the regulations and discusses the impact of the regulations on the palm oil industry.

WHAT IS NEW?

The new Food Safety Act has several salient features very different from the earlier food regulatory regime, and therefore is a very revolutionary regulation. The Act advocates transparency in the process of rule-making and the involvement of stakeholders in decision-making. The Food Safety Authority has a wider representation of food technologists and scientists,

state governments, ministries, consumer organisations, the food industry, farmers and retailers. The regulations provide for formulating science-based standards that distinguish between quality, safe food and substandard or unsafe food. Risk assessment is integral to the process of setting standards. A new regulatory structure that envisages a large network of food laboratories is enforced. Provisions have been made for improvement notices and graded penalties in accordance to the severity of the offences. While food imports are regulated, the trend will shift from regulation to self-compliance

by food business operators. Dispensation of justice will be fast with the new procedures of adjudication and fast-track disposal of cases through tribunals. The Act also promotes innovations by way of provision of Section 22 to include nutraceuticals, functional foods, GM foods, etc. in the Act and implementation of new procedures such as product approval.

IMPACT ON PALM OIL INDUSTRY

Vegetable oil consumption in India has increased following a rise in household income and consumer demand. India imports half of her edible oil requirements, making her the world's third largest importer of edible oil. India is the fourth largest edible oil economy in the world, with more than half of the nation's total edible oil requirements (of around 10 million tonnes) met through imports. Palm oil and soyabean oil comprise most of these imports, of which palm oil constitutes about 80%. Palm oil is among the newer oils which were not known before and have entered the kitchen in recent times.

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Therefore, the consumption of refined palm oil (RBD palm olein) and for blending with other oils have increased substantially over the years, especially in hotels, restaurants and in the preparation of a wide variety of food products. The new food law will impact the industry with respect to various aspects like licensing, food testing, sampling procedures, food imports, etc.

LICENSING

The licensing chapter of the new food law provides for licensing and registration of food businesses in India. Every single food business operator (FBO) in India needs to be licensed or registered under the FSS Act 2006. Under FSSAR, licensing is a two-tier system involving Central and State licensing. Large-scale FBOs which fall under the purview of Schedule I of the Food Safety and Standards (Licensing and Registration Regulations), 2011, must apply for a license with the Central Licensing Authority. For the edible oil industry, all vegetable oil processing units with an installed capacity of more than two million tonnes per day and all importers of oil shall fall under the scope of Central Licensing. Medium-scale FBOs, warehouses, distributors, etc., are eligible for State Licensing. The eligibility criteria are provided by FSSAI for facilitating FBOs in understanding their liability for licensing. FBOs must follow the hygiene and safety requirements provided under Part 4 of Schedule 4 of the Regulations. Registration is a provision made for petty manufacturers like small-scale FBOs, street vendors, etc.

Petty food manufacturers with an annual turnover of less than Rs 12 lakhs will fall under the purview of registration. The petty food manufacturer must follow the basic hygiene and safety requirements provided in Part I of Schedule 4 of the Regulations.

Licenses will be granted by the Licensing Authority based on compliance to the conditions of the license, and they may be obtained for a period of 1 to 5 years. The licensed establishments will be subject to periodical inspections and food safety audits by the Licensing Authority or by certain agencies authorised for the purpose. Strict compliance must be ensured to Schedule 4, which elaborates on the general hygiene and sanitary requirements mandatory for a food business operator. FBO will need to employ at least one technical person with a Science degree to supervise production. Twice a year testing for relevant toxins, chemical and/or microbiological contaminants in products through its own or National Accreditation Board for Testing and Calibration Laboratories (NABL) accredited/FSSAI notified laboratories is imperative. FBO must have a well equipped laboratory facility for analytical testing of samples in the premises. It is mandatory that FBO buys from or sells to only licensed/registered vendors. FBO will be responsible for informing the licensing authorities of any modifications in the documents, products or manufacturing lines. Filing of returns annually, on or before 31 May of each year, and filing of separate returns for every licensee are compulsory. Daily records of production, purchase and sales will need to be

maintained. Cleaning procedures for machines and equipment will follow the Clean-In-Place systems, and the required temperature and humidity conditions will need to be ensured throughout the supply chain. A register is maintained for edible oils and solvent extracted oil, showing the quantity of oil manufactured, received, nature of oil used as applicable, and the destination of each consignment dispatched from the factory.

LABELING

There are not many changes in the labeling requirements for other products. However with the orders like the Edible Oil Packaging (EOP) (control) order 1988, Vegetable Oil Products (control) Order 1947 (VOP), and the Solvent Extracted Oil (control) Order 1967 (SEO) control order merging into FSSAI, the registration numbers issued under such orders will not be valid. This may imply labeling revisions for the labels of certain products. However, the Legal Metrology Act and Rules and AGMARK regulations are still operative. Also elaborate legislation for regulating label claims and claim substantiation is being framed and may be made available soon.

PRODUCT STANDARDS

For the product standards chapter, the Food Safety and Standards Act includes a section (Section 22) providing for new categorisation of foods, namely; health supplements, foods for special dietary uses, novel foods, etc. The categories are defined broadly in the Act and a more detailed regulation on this front is expected. This feature which was absent in the existing food laws is anticipated to facilitate

and promote the development of new products, thus enabling innovation opportunities and the growth of the industry.

IMPORT OF FOOD

An additional chapter is expected to be incorporated into the Food Safety and Standards Regulations relating to food imports. The Authority has uploaded the draft regulations for Food Safety and Standards (Food Import) Regulations, 2011 on its website, and comments from the public have been invited for the same. The draft regulations include various chapters on licensing of food imports, their prohibition and regulation, the risk categorisation, sampling and analysis, and disposal of rejected food products. As most palm oil in India comes through imports, the import regulations will have a certain impact on the palm oil industry. In absence of a regulation, the Food Authority has operationalised the import food clearance process since August-September 2010, through the appointment of Authorised Officers at 14 major ports of entry.

FOOD RECALL

Some other requirements have been introduced with the implementation of these regulations. With a view to addressing the issues of food traceability under the FSSA, 2006, the establishment of food recall procedures has been made compulsory, and it has been laid down that a recall plan must be submitted where applicable, along with the license application. The nominations are present under the PFA Act. The companies will need to file the nominations under the new law to inform the Licensing

Authority of the nominees for their establishments.

RECENT PROVISIONS/NEW PROCEDURES

FSSAI has recently introduced a simple process of new product approval for all the non-standardised foods and foods falling under Section 22 of the FSS Act 2006. Products which have been in the market for a long time and consist of approved ingredients and additives will be considered for direct product approval. For foods under Section 22, applicants will need to provide safety data basis for which no objection certificate will be issued to such products.

The Authority has also proposed the harmonisation of Indian food standards with Codex and other international best practices and has invited relevant experts to participate and partner in the process. With harmonisation of the standards, use of newer additives will be facilitated. Such new efforts by the Authority are expected to provide a huge impetus to innovation in a significant way.

EXPECTED REGULATORY CHANGES

Draft Regulations notified: FSSAI has posted certain draft notifications on its website with respect to proposed amendments for edible oil regulations. In a draft notification F. No. P. 15014/1/2011-PFA/FSSAI dated 29 November 2012 amending the Food Safety and Standards (Food Product Standards and Food Additives) Regulations, 2011, it was proposed that the standards for vanaspati, bakery shortening

and bakery and industrial margarines be revised to replace the melting point requirement with the a maximum *trans* fat limit of 10%. As per this notification, palm stearin shall be allowed for use in making vanaspati. The same notification also provides for the enzymatic process to be allowed for interesterification of vanaspati and interesterified vegetable fat. This technology may help develop healthier products that are based on specific nutritional needs of individuals. However, there is no update on the implementation of this revision.

In another draft regulation F. No. P. 15014/1/2011-PFA/FSSAI amending the Food Safety and Standards (Packaging and Labeling) Regulations, 2011 uploaded on the authority's website on 11 December 2012, FSSAI proposed that the *trans* fatty acid and saturated fatty acid contents shall be declared on the packaging of vanaspati, edible oils or any other products containing FA from vanaspati sources. These draft amendments have been proposed by FSSAI but there is no update on the implementation of these amendments.

RIGHTS OF THE CONSUMER

Under Section 40 of the FSS Act, any purchaser of a food item can get the food analysed, and if the food item is in contravention to the Act and Regulations, action can be initiated against the Food Business Operator. This is a very important section, and the FSS Act has given power to the common consumer to keep a watch on food items which do not meet the regulations. There

is even a provision under the Act to get money refunded if the food item contravenes the Regulations.

THE WAY FORWARD

FSSAI has recently extended the period of licensing and registration for one more year, and this has given good breathing space to Food Business Operators. Considering the size of the food industry, it will take time for the new food law to penetrate the industry, and lots of awareness need to be created by FSSAI authorities. Features such as a single window for licenses and

special courts to settle disputes are welcomed. It is expected that innovation will gain impetus with the new provisions enacted under FSSAR. Industry anticipates that stronger implementation, involvement of stakeholders in rule framing, single authority and law, sound scientific standards aligned with international regulations are among the many important benefits of FSSA implementation. The Indian food industry appreciates the new law and looks forward to its implementation. While Industry welcomes the regulatory changes that will be enacted by the Authority, the Authority must

also consider that industry will require time and support to adopt new practices and to implement them. The most important thing is consumer safety which is prime motto of FSSAR.

For more details you can log in to <http://www.fssai.gov.in/>.

REFERENCES

THE FOOD SAFETY AND STANDARDS (FSS) ACT (2001). Retrieved from <http://www.fsai.gov.in>