Tuesday, June 23, 2020

- Firms exporting food products from the U.S. are often required by foreign governments and companies to provide certain assurances regarding a product’s regulatory or marketing status in the U.S. The FDA Center for Food Safety and Applied Nutrition (CFSAN) issues different forms of export certificates including (1) the “Certificate to a Foreign Government,” which states that the food product(s) in question may be legally marketed and exported from the U.S., and (2) the “Certificate of Exportability,” which is available for food products that cannot be marketed in the U.S. but which nevertheless may be legally exported from the U.S. (the certificate states that the product(s) may be exported and that they comply with section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act). However, even where an export certificate has been issued, the FDA may take regulatory action against a product covered by the certificate.

- On June 22, 2020, the FDA announced that effective June 29th, the “Certificate to a Foreign Government” and “Certificate of Exportability” for human food products will include a unique QR code which will allow anyone inspecting the export certificate to scan the QR code and see the copy of the export certificate as issued by the FDA.

- The change promises to streamline verification which currently requires stakeholders to create an account through CFSAN’s online verification system, contact FDA to activate the account, and login to view the certificate. However, FDA is also launching a new portal for faster verification without QR codes.
Keller & Heckman will continue to monitor any changes to the FDA’s process of verifying its export certificates.

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