

FDAImports.com Gets Juice Company off Import Alert for Carbendazim/MBC, Shipments Are Released

Press Release

Columbia, MD 2.6.2012

The [U.S. Food and Drug Administration](#) is increasing enforcement actions against Brazilian orange juice companies for the appearance of the presence of [Carbendazim](#) (MBC), according to Benjamin England and FDA consulting firm, FDAImports.com. Since January 1, 2012, FDA has placed twenty-three new companies on Import Alert #99-08, "Detention Without Physical Examination Of Processed Foods for Pesticides." In the last few weeks, at least five of those added companies are Brazilian firms.

Import Alert #99-08 is a compilation of all processed foods, usually identifying the processor, which may contain illegal pesticide residues. While FDA defers pesticide-tolerance level establishment to the Environmental Protection Agency (EPA), FDA retains the authority to enforce any apparent violations. FDA exercises its enforcement authority to place processors on the Red List of Import Alert #99-08 based on the appearance of illegal pesticide-use violations. Being placed on the Red List means that every imported shipment may be detained without FDA performing any laboratory analysis.

"The operative phrase that FDA uses when they detain a shipment is, 'appearance of a violation,' in this case, Carbendazim." said Benjamin England. "It doesn't matter if you actually use Carbendazim or an approved pesticide (e.g. *thiophanate methyl*) which breaks down to MBC, it only matters that the FDA believes there is an *appearance* of an illegal pesticide." Mr. England stated that the U.S. government is obligated to demonstrate an actual violation but in many cases simply cannot. "Since FDA can only test residues it cannot really know if the processor used an illegal pesticide since pesticide residues breakdown into other chemicals," said England. "This is the argument we used to assist one of our clients in attempting to prove that FDA could not demonstrate an actual violation and therefore could not legally detain our client's shipment."

Benjamin England and his team of regulatory consultants battled FDA on the fact that it (FDA) must possess *evidence* of a violation in order to detain an entry and subsequently put a company on import alert. England noted that FDAImports.com has assisted many companies with battling FDA's charges of *apparent* violations, as well as petition for removal from Import Alerts.

Sources

http://www.accessdata.fda.gov/cms_ia/importalert_259.html?source=govdelivery

<http://www.fdaimports.com/blog/orange-juice-fungicide-residues-infographic/>

About FDAImports.com

FDAImports.com is an FDA consulting firm helping U.S. and foreign companies navigate through and meet complex FDA regulations for marketing and importing foods, dietary supplements, drugs, cosmetics and medical devices. Benjamin L. England, Founder and CEO, is a former 17-year veteran of the FDA and served as the Regulatory Counsel to the Associate Commissioner for Regulatory Affairs.

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