

Imported Food Products and Non-US Providers: New Requirements- Importer's Corner

If you import foods from abroad for resale, or if you are a seller of food to buyers in the United States. You need to know this.

Under a law dubbed the "Bioterrorism Act" adopted by Congress in the wake of 9/11 and signed by the President on June 12, 2002, two important things happen to suppliers of food to the United States market. These rules will apply to catalog companies selling food to consumers for their personal use as well as to resellers.

First, beginning December 12, 2003, the Bioterrorism Act required prior notice of the importation of food to the U.S. to be submitted either through Customs Automated Broker Interface of the Automated Commercial System (ABI/ACS) or FDA's Prior Notice (PN) System Interface. If you are a regular seller to US customers, you probably know about these reporting systems, or your shipping agent does. If you don't, you can learn about the systems, and how to give prior notice here:<http://www.cfsan.fda.gov/~pn/pnoview.html>.

FDA will review and evaluate this information in advance of the arrival of imported food in order to determine whether physical inspection is required.

Of importance to companies relying substantially on receiving products by postal service or air express carrier, the FDA has announced that until May 12, 2004, it will not stop unnotified shipments sent through the postal service and couriers, but relevant packages and shipments will be opened and inspected by Customs and a notice inserted into the box informing the addressee of the new notice requirement. The information required to be submitted is extensive but is commonly found on most commercial invoices.

If you are US importer or buyer of food products which are often sent to you by air courier or postal service, you should check incoming boxes for these notices, as they are an indication that your supplier has not given proper prior notification. You should work with them to do so.

In the case of shipments of food by mail or express carrier, such as catalog items, the PN (Prior Notification) Confirmation Number must appear on the Customs Declaration that accompanies the package. This number is issued by the FDA through its website.

After May 12, it is expected that Customs will hold shipments for 24 hours if prior notice has not been provided. Well, let's make that read that the USPS, or FedEx, or DHL, or UPS, will hold the product, presumably at somebody's cost.

What must be reported? Basically any food meant for human or animal consumption, or which will become part of food. What is not food? (1) food carried in by a traveler for personal and family consumption and not for resale; (2) food that is exported without leaving the port of arrival until export; (3) meat food products, poultry products and egg products that are subject to the exclusive jurisdiction of the U.S. Department of Agriculture; and (4) homemade foods sent as personal gifts.

For further information about what must be reported, when, how, and to whom, please visit the FDA's definitive guidance page at <http://www.cfsan.fda.gov/~dms/fsbtac13.html>. If the "shipment" is through the

international mail system, look for guidance here:
<http://www.cfsan.fda.gov/~pn/pngift.html>.

The FDA has a website with powerpoint and flash tutorials on complying with the prior notice requirements at <http://vm.cfsan.fda.gov/~pn/pnsitut.html>. Be warned, the tutorials require a fast connection and patience.

The second requirement under the Bioterrorism Act is that all domestic and foreign facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States must register with the FDA by December 12, 2003. In the event of a bioterrorism incident or an outbreak of food-borne illness, facility registration information will supposedly help the FDA to determine the location and source of the event. Facilities can register online via the Internet, by completing a paper form, or by submitting to FDA a CD-ROM with relevant registration information. Form 3537 must be used to register or update a registration. As of October 16, 2003 facilities may register online via the Internet at <http://www.cfsan.fda.gov/~furls/ovffreg.html>.

If your business relies on food products originating abroad, it would be advisable to confirm that your suppliers are properly registered. If they are not, their shipments could be prohibited from clearing Customs.

When in doubt, go to the FDA's homepage www.fda.gov and click on the relevant topics under "Food Industry".