§ 1.284 What are the other consequences of failing to submit adequate prior notice or otherwise failing to comply with this subpart?

(a) The importing or offering for import into the United States of an article of food in violation of the requirements of section 801(m) of the act, including the requirements of this subpart, is a prohibited act under section 301(ee) of the act (21 U.S.C. 331(ee)).

(b) Section 301 of the act prohibits the doing of certain acts or causing such acts to be done.

1. Under section 302 of the act (21 U.S.C. 332), the United States can bring a civil action in Federal court to enjoin persons who commit a prohibited act.

2. Under sections 301 and 303 of the act (21 U.S.C. 331 and 333), the United States can bring a criminal action in Federal court to prosecute persons who are responsible for the commission of a prohibited act.

(c) Under section 306 of the act (21 U.S.C. 335a), FDA can seek debarment of any person who has been convicted of a felony relating to importation of food into the United States or any person who has engaged in a pattern of importing or offering for import adulterated food that presents a threat of serious adverse health consequences or death to humans or animals.

§ 1.285 What happens to food that is imported or offered for import from unregistered facilities that are required to register under subpart H of this part?

(a) Consequences. If an article of food from a foreign facility that is not registered as required under section 415 of the act (21 U.S.C. 350d) and subpart H of this part is imported or offered for import into the United States, the food is subject to being held under section 801(l) of the act (21 U.S.C. 331(ee)).

(b) Hold. Unless CBP concurrence is obtained for export and the article is immediately exported from the port of arrival, if an article of food has been placed under hold under section 801(l) of the act, it must be held within the port of entry for the article unless directed by CBP or FDA.

(c) Status and movement of held food.

1. An article of food that has been placed under hold under section 801(l) of the act shall be considered general order merchandise as described in section 490 of the Tariff Act of 1930, as amended (19 U.S.C. 1490).

2. Food under hold under section 801(l) of the act must be moved under appropriate custodial bond unless immediately exported under CBP supervision. If the food is to be held at the port, FDA must be notified of the location where the food is held at the port before the food is moved there. If the food is to be held at a secure facility outside the port, FDA must be notified of the location of the secure facility before the food is moved there. The food subject to hold shall not be entered and shall not be delivered to any importer, owner, or ultimate consignee. If the food is to be held at a secure facility outside a port, the food must be taken directly to that secure facility.

(d) Segregation of held foods. If an article of food that has been placed under hold under section 801(l) of the act is part of a shipment that contains articles that have not been placed under hold, the food under hold may be segregated from the rest of the shipment. This segregation must take place where the article is held. FDA or CBP may supervise segregation. If FDA or CBP determine that supervision is necessary, segregation must not take place without supervision.

(e) Costs. Neither FDA nor CBP will be liable for transportation, storage, or other expenses resulting from any hold.

(f) Export after hold. An article of food that has been placed under hold under section 801(l) of the act may be exported with CBP concurrence and under CBP supervision unless it is seized or administratively detained by FDA or CBP under other authority.

(g) No registration or request for review. If an article of food is placed under hold under section 801(l) of the act and no registration number or request for FDA review is submitted in accordance with paragraph (j) of this section or export has not occurred in accordance with paragraph (f) of this section, the food shall be dealt with as set forth in CBP regulations relating to general order merchandise, except that, unless otherwise agreed to by CBP and FDA,