

## § 1.278

(6) Egg products that at the time of importation are subject to the exclusive jurisdiction of USDA under the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*); and

(7) Articles of food subject to Article 27(3) of The Vienna Convention on Diplomatic Relations (1961), i.e., shipped as baggage or cargo constituting the diplomatic bag.

### REQUIREMENTS TO SUBMIT PRIOR NOTICE OF IMPORTED FOOD

#### § 1.278 Who is authorized to submit prior notice?

A prior notice for an article of food may be submitted by any person with knowledge of the required information. This person is the submitter. The submitter also may use another person to transmit the required information on his/her behalf. The person who transmits the information is the transmitter. The submitter and transmitter may be the same person.

#### § 1.279 When must prior notice be submitted to FDA?

(a) Except as provided in paragraph (c) of this section, you must submit the prior notice to FDA and the prior notice submission must be confirmed by FDA for review as follows:

(1) If the article of food is arriving by land by road, no less than 2 hours before arriving at the port of arrival;

(2) If the article of food is arriving by land by rail, no less than 4 hours before arriving at the port of arrival;

(3) If the article of food is arriving by air, no less than 4 hours before arriving at the port of arrival; or

(4) If the article of food is arriving by water, no less than 8 hours before arriving at the port of arrival.

(b) Except in the case of an article of food imported or offered for import by international mail:

(1) If prior notice is submitted via Automated Broker Interface/Automated Commercial System (ABI/ACS), you may not submit prior notice more than 30-calendar days before the anticipated date of arrival.

(2) If prior notice is submitted via the FDA Prior Notice System Interface (FDA PNSI), you may not submit prior

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notice more than 15-calendar days before the anticipated date of arrival.

(c) Notwithstanding paragraphs (a) and (b) of this section, if the article of food is arriving by international mail, you must submit the prior notice before the article of food is sent to the United States.

(d) FDA will notify you that your prior notice has been confirmed for review with a reply message that contains a Prior Notice (PN) Confirmation Number. Your prior notice will be considered submitted and the prior notice time will start when FDA has confirmed your prior notice for review.

(e) The PN Confirmation Number must accompany any article of food arriving by international mail. The PN Confirmation Number must appear on the Customs Declaration (e.g., CN22 or CN23 or U.S. equivalent) that accompanies the package.

(f) A copy of the confirmation, including the PN Confirmation Number, must accompany any article of food that is subject to this subpart when it is carried by or otherwise accompanies an individual when arriving in the United States. The copy of the confirmation must be provided to U.S. Customs and Border Protection (CBP) or FDA upon arrival.

(g) The PN Confirmation Number must accompany any article of food for which the prior notice was submitted through the FDA PNSI when the article arrives in the United States and must be provided to CBP or FDA upon arrival.

#### § 1.280 How must you submit prior notice?

(a) You must submit the prior notice electronically to FDA. You must submit all prior notice information in the English language, except that an individual's name, the name of a company, and the name of a street may be submitted in a foreign language. All information, including the items listed in the previous sentence, must be submitted using the Latin (Roman) alphabet. Unless paragraph (c) of this section applies, you must submit prior notice through:

(1) The U.S. Customs and Border Protection (CBP) Automated Broker Interface of the Automated Commercial System (ABI/ACS); or

(2) The FDA PNSI at <http://www.access.fda.gov>. You must submit prior notice through the FDA Prior Notice System Interface (FDA PNSI) for articles of food imported or offered for import by international mail, and other transaction types that cannot be made through ABI/ACS. Prior notice for articles that have been refused under section 801(m)(1) of the act and under this subpart must be submitted through the FDA PNSI until such time as FDA and CBP issue a determination that ACS or its successor system can accommodate such transactions.

(b) If a customs broker's or self-filer's system is not working or if the ABI/ACS interface is not working, prior notice must be submitted through the FDA PNSI.

(c) If FDA determines that FDA PNSI or the Operational and Administration System for Import Support (OASIS) is not working, FDA will post prominent notification and instructions at <http://www.fda.gov>. FDA will accept prior notice submissions in the format it deems appropriate during the system(s) outage.

**§ 1.281 What information must be in a prior notice?**

(a) *General.* For each article of food that is imported or offered for import into the United States, except by international mail, you must submit the information for the article that is required in paragraphs (a)(1) through (a)(17) of this section:

(1) The name of the individual submitting the prior notice and his/her business address, phone number, and e-mail address, and the name and address of the submitting firm, if applicable. If the business address of the individual submitting the prior notice is a registered facility, then the facility's registration number, city, and country may be provided instead of the facility's full address;

(2) If different from the submitter, the name of the individual and firm, if applicable, transmitting the prior notice on behalf of the submitter and his/her business address, phone number,

and e-mail address. If the business address of the individual transmitting the prior notice is a registered facility, then the facility's registration number, city, and country may be provided instead of the facility's full address;

(3) The entry type;

(4) The U.S. Customs and Border Protection (CBP) entry identifier (e.g., CBP entry number or in-bond number), if available;

(5) The identity of the article of food being imported or offered for import, as follows:

(i) The complete FDA product code;

(ii) The common or usual name or market name;

(iii) The estimated quantity of food that will be shipped, described from largest container to smallest package size; and

(iv) The lot or code numbers or other identifier of the food if required by the act or FDA regulations, e.g., low-acid canned foods, by § 113.60(c) of this chapter; acidified foods, by § 114.80(b) of this chapter; and infant formula, by § 106.90 of this chapter;

(6) For an article of food that is no longer in its natural state, the identity of the manufacturer, as follows:

(i) The name of the manufacturer; and

(ii) Either the registration number, city, and country of the manufacturer or both the full address of the manufacturer and the reason the registration number is not provided;

(7) For an article of food that is in its natural state, the name and growing location address of the grower, if known. If the submitter does not know the identity of the grower or, if the article has been consolidated and the submitter does not know the identity of any of the growers, you may provide the name and address of the firm that has consolidated the articles of food from different growers or different growing locations;

(8) The FDA Country of Production;

(9) If the shipper is different from the manufacturer, the identity of the shipper, as follows:

(i) The name of the shipper; and

(ii) The full address of the shipper. If the address of the shipper is a registered facility, you also may submit