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To Ms. Mary Ayling
CFSAN, FDA

From Al Yamada, Washington Representative
Fresh Produce Association of the Americas

Subject "Prior Notice" - Docket No. 02N-0278

Date August 30, 2002

The Fresh Produce Association of the Americas, Nogales, AZ, notes that the eight-hour minimum requirement should be waived for certain types of shipments from Mexico and Canada. Where the originating point is close to the border, there is often very little notification time since the economies of the US, Mexico, and Canada are intertwined and closely related. Commerce flows smoothly and seamlessly between those countries in certain sectors so that an eight-hour prior notice would be impractical, if not impossible and unreasonable.

The eight-hour prior notice should be waived when:

- The shipment consists entirely of one type of perishable product (e.g., fresh produce, fish, shellfish.)
- The shipment originates in Mexico or Canada.
- The shipment is not a mixture or combination of food types.
- The shipment travel time is less than eight hours.
- The shipper and importer are known to US authorities and have a good record.

In case of fresh produce from Mexico, the American receiver may know that a truckload of fresh produce is due to arrive but does not know the exact type of fresh produce (e.g., tomatoes, green peppers, cucumbers) and the exact quantity (e.g., 20,000 lbs. of tomatoes, 10,000 pounds of green peppers.).

As long as the shipment does not mix products, e.g., fresh produce and seafood, the eight-hour prior notice requirement should be waived. The waiver will not cause undue inconvenience or difficulty to FDA as the inspectors will know that a shipment is arriving, except for the exact variety and exact quantity.

Without waivers, perishable fresh produce are likely to sit at the border for hours to satisfy the eight-hour requirement. Such delays will affect quality and will hurt American businesses as well as American consumers.

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