



Chocolate Manufacturers Association • National Confectioners Association

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August 30, 2002

BY ELECTRONIC MAIL AND FIRST CLASS MAIL

Dockets Management Branch
(HFA-305)
Food and Drug Administration
5630 Fishers Lane
Room 1061
Rockville, MD 20852

Re: Dockets Nos. 02N-0275, 02N-0276, 02N-0277, and 02N-0278

The Chocolate Manufacturers Association (CMA) and the National Confectioners Association (NCA) appreciate the opportunity to submit these comments regarding the Food and Drug Administration's (FDA) plans for implementation of the Public Health Security and Bioterrorism Preparedness and Response Act (P.L. 107-188) (the Bioterrorism Act).

CMA is the not-for-profit trade association representing the majority of chocolate manufacturers in the United States. In addition to supplying the trade with bulk chocolate products, CMA members also manufacture a wide variety of finished chocolate and chocolate-containing confectionery products for the consumer market. NCA is the not-for-profit trade association representing more than 650 confectionery manufacturers and suppliers in the United States.

In addition to the many areas of general concern to the food industry, CMA and NCA would like to highlight an issue of particular concern to the chocolate and confectionery industries.

Docket No. 02N-0278: Prior Notice

Section 307 of the Bioterrorism Act requires that prior notice of food imports include the name of the grower "if known." CMA and NCA request that FDA's proposed rule recognize that, where a single shipment may contain food grown on hundreds or even thousands of farms, this information should not be required.

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Cocoa beans are grown on more than 2 million farms worldwide. In the Ivory Coast alone, over 600,000 farms produce cocoa beans for export. Between the farm on which they are grown and the exporter who ships the beans to the United States, cocoa beans typically change hands several times and undergo commingling, blending, sorting, cleaning, drying, grading, and re-bagging. The commingling of beans from numerous different growers may occur several times before the beans are exported to the United States. Under these circumstances, it is usually not possible for the exporter to know the identity of the growers of beans that make up a particular shipment. Even if the exporter does know the identity of the growers, reporting this information is likely to be impractical (especially if the notification system is electronic and includes a single field for the grower) and the information itself is unlikely to be useful to the FDA because of its sheer volume.

CMA and NCA request that FDA's proposed rule provide that a prior notice of import is not required to include the name of the grower(s) where this information is not readily known. The notifying party should have no legal duty to seek out this information. The import notification system should be designed so that the absence of this information does not trigger rejection of the prior notice and does not result in placement of a hold on the shipment.

We also request that the proposed rule provide that, where a shipment contains food grown on numerous farms, providing the names of the growers is optional. Even where the notifying party does know the identity of the growers, reporting the names of dozens, hundreds, or even thousands of growers will not be feasible and will not provide FDA with meaningful information.

We appreciate this opportunity to comment.

Respectfully submitted,

Lawrence T. Graham

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President

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