



Ontario Agri Business Association

Suite 104, 160 Research Lane, Guelph, Ontario N1G 5B2

Phone: 519-822-3004 Fax: 519-822-8862

April 4, 2003

Dockets and Management Branch (HFA-305)
Food and Drug Administration
5630 Fishers Lane,
Room 1061
Rockville, Maryland
U.S.A. 20852

Re: Dockets No. 02N-0278 and 02N-0276, Proposed Rulemaking, Prior Notice of Imported Food and Proposed Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002

The Ontario Agri Business Association (OABA) is a voluntary, non-profit organization that represents the interests of country grain elevators, feed manufacturing facilities and crop input supply businesses, operating out of 406 business locations throughout the Canadian province of Ontario.

Cross-border trade is an essential part of the economies of both Canada and the United States. Many of OABA's member firms benefit from the export market, supplying grains & oilseeds to U.S. processors, livestock and poultry feed for American farmers, and supplying Canadian processors that export their products around the world. Exports from Ontario in feed, and raw and processed grains and oilseeds totalled \$2.1 billion in 2002. It is estimated that 87.5% of Ontario agri-food exports were destined for the United States of America.

The following comments are respectfully submitted by the Ontario Agri Business Association to provide our perspective on proposed provisions governing importation of foods, food products and food ingredients into the United States as published in the Federal Register in January 2003.

Registration of Food Facilities (Section 305 – Public Health Security and Bioterrorism Preparedness and Response Act of 2002)

OABA is not opposed to having all firms exporting products into the United States register with the USFDA as proposed. The Association is concerned that the USFDA will have difficulty receiving and processing all registrations within the sixty (60) day period proposed in the regulations. Interruption of our member firms' ability to export products due to a backlog of registrations is unacceptable. It is essential that the USFDA ensure that they have the necessary resources to process all the registrations or develop a phase-in period for different categories of companies based on size.

Prior Notice of Imported Food (Section 307 - Public Health Security and Bioterrorism Preparedness and Response Act of 2002)

OABA is concerned that this Act will interfere with programs such as FAST and C-TPAT that have been developed by the Canadian and U.S. customs departments. A number of our member firms have

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qualified to participate in the FAST and C-TPAT programs, and in doing so, have already committed to ensuring safety in the products they ship and the carriers they use.

There are a number of challenges that providing prior notice 24 hours before crossing the border will create for our members. OABA would like to submit the following recommendations on these regulations for your consideration:

- A shipping weight tolerance needs to be included in the regulations. Companies must be allowed to make amendments to their Prior Notice application in a simple and timely matter, especially when it relates to shipment weights, which vary based on moisture content and container capacity and are not known until the time of loading.
- Many of our members have access to more than one point of entry to the United States. A number of factors (weather, road conditions, border delays etc.) could impact the decision on what port of entry to use. OABA strongly recommends that some flexibility be placed into the regulations to allow exporters to change the declared point of entry.
- The Association is very concerned that shipments will only be accepted for entry into the United States if they arrive within a four-hour window as specified in the prior notification. As pointed out earlier, there are a number of variables that could impact the ability of a shipment to arrive at the port of entry within this 'window'. The Association requests that the USFDA consider expanding this arrival at port of entry window to a period of up to six hours before and 18 hours after the time declared in the prior notice.

Summary

The amount of paperwork required and the time-lines that need to be followed for notification and delivery could create logistical confusion and increased congestion at the various border crossings.

OABA appreciates and understands the need for drafting legislation to address the risks faced by the United States from bioterrorism and other public health emergencies. It is essential however that this legislation and the regulations that accompany it address safety concerns without negatively impacting the cross-border trade that is essential to the economies of both of our countries. If not implemented carefully, this legislation could create a non-tariff trade barrier to Canadian goods entering the United States.

Thank you for the opportunity to comment on these regulations. If you have any questions, or require further clarification regarding this submission, please do not hesitate to contact me at the Association office in Guelph.

Respectfully submitted,

ONTARIO AGRI BUSINESS ASSOCIATION



David Buttenham
Chief Executive Officer

CC: Members, Grain Section Committee, Ontario Agri Business Association
Jim Campbell, President, Ontario Agri Business Association