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July 9, 2004

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

Re: Prior Notice of Imported Food Under the Public Health Security and
Bioterrorism Preparedness and Response Act of 2002
Joint Food and Drug Administration-Customs and Border Protection Plan
for Increasing Integration and Assessing the Coordination of Prior Notice
Timeframes
Docket Id: 2002N0278
CFR Citation: 21 CFR 1
Published: April 14, 2004 [FR Doc. 04-08515]

Dear Sir/Madam:

We are writing on behalf of our client, Japan Airlines International Co., Ltd., (“JAL”) an international air carrier based in Japan. JAL files these comments (a) to support the above-referenced interim final rule (IFR) and the U.S. Government’s need to protect this country’s borders, particularly from bioterrorism, and (b) to suggest a modest addition, which would in no way detract from the strength of the IFR.

With respect to the modest change proposed herein, JAL states the following:

1. JAL conducts a number of flights each day to and from the U.S. Most of the JAL flights that arrive at a particular U.S. airport from overseas also depart a short time later from that same airport for the return flight to Japan or for a flight to another foreign destination. As to these just-described flights, although there is usually some unconsumed food on the aircraft after its arrival in the U.S., that residual food (bottled

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beverages, packaged snacks and the like) is not subject to prior notice to the FDA because the exception in section 1.277(b)(3) of the IFR applies: "Food that is imported then exported without leaving the port of arrival until export."

2. However, JAL has some incoming flights to the U.S. that do not necessarily depart for Japan on a nonstop basis from the arrival airport. For example, the flight from Tokyo to Las Vegas does not return nonstop to Japan; rather, the aircraft returns to Japan via Los Angeles. When returning to Japan, however, the food that was on board the aircraft when it arrived at Las Vegas does not leave the aircraft either at Las Vegas or Los Angeles on the return journey to Japan. JAL believes that so long as the food being exported remains on the same aircraft that brought such food into the U.S., it should not matter from a security standpoint that the aircraft leaves Las Vegas for Japan on a one-stop basis via Los Angeles rather than on a nonstop basis.

3. An airline would incur significant administrative costs in tracking and reporting food that remains on the same aircraft that both imported and exported the food. At the same time, excepting such food from the prior notice requirement would pose no security risk discernible to JAL. That is, since the food would remain on the aircraft at all times and would be consumed only on the return to Japan, the food would never "enter" the United States nor pose a threat to its people. There is no need to impose substantial managerial and financial burdens in these circumstances.

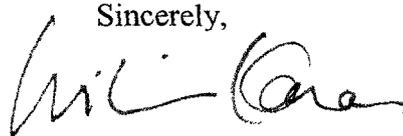
4. Consequently, JAL proposes the addition of the following exception to section 1.277(b):

"Food that is imported by a shipper operating an aircraft in international air transportation, then exported by the same shipper, so long as such food remains on board the aircraft at all times from import to export."

* * *

This exception does not hinder the intent behind the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 or the subsequent Prior Notice regulations. We therefore respectfully request that you add this exception in the Final Rules. Do not hesitate to contact us if you have any questions.

Sincerely,



William Karas