

I. CBP PROCEDURES FOR BTA PROCESSING

Purpose: The purpose of this document is to provide interim guidance to trade partners engaged in the entry and release of imported food products, which are subject to the *Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (BTA)*, which will be implemented on December 12, 2003. This document is a work in progress. As procedural, technical and other changes take place during the implementation process, this document will be amended to reflect them.

Background: The BTA was intended to protect the health and safety of the people of the United States from an intended or actual terrorist attack on the nation's food supply. Under the Prior Notice (PN) requirements of the BTA, the Food and Drug Administration (FDA) must receive prior notice for all food imported or offered for import into the United States. Any imported food products that are not in compliance with the PN requirements of the BTA, must be held at either the port of arrival or a secure facility until such time that they are either brought into compliance with the BTA or are exported from the United States with CBP approval. FDA and CBP have agreed to phase in the implementation over a several month period in order to reduce the impact on trade.

NOTE: No merchandise will be held on December 12, 2003 unless a threat is identified and FDA working in conjunction with CBP at the National Targeting Center (NTC) orders a hold. An inadequate PN submission (or untimely) will not provide the sole cause to hold any shipment until further notice from CBP Headquarters.

Food: Under the BTA, "food" is defined as any of the following:

- Articles of food or drink used for man or other animals (human and animal food including dietary supplements)
- Chewing gum
- Articles used as components of any such article, except for food contact substances and pesticides

BTA-Regulated Importations: The PN requirements of the BTA apply to all of the following regardless of value:

- All food imported or offered for import into the United States
- Imported food, which is stored or distributed in the United States
- Imported food, used as gifts, trade items, and quality assurance/control samples
- Imported food transshipped through the United States to another country
- Food imported into the United States for future export
- Imported Food admitted into a U.S. Foreign Trade Zone (FTZ)

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BTA PN Exemptions: FDA has exempted the following classes of food products from the PN reporting requirements of the BTA:

- Meat, poultry and egg products subject to the exclusive jurisdiction of the USDA.
- Homemade goods shipped as gifts
- Personal use food accompanying a traveler
- Food that is immediately exported (IE, in-bond type 63)

Required PN Data: PN must include the following data elements:

- Product (by FDA Product Code)
- Manufacturer/Shipper/Grower
- Country of Origin
- Country from which the product is shipped
- Anticipated port of arrival
- Anticipated date of arrival
- ACS entry type and date
- Bill of Lading/Air Waybill and/or in-bond number as appropriate

Required PN Timeframes: For all imported shipments of BTA-regulated food products, PN must be provided to FDA within the following timeframes:

- **Land Border:** PN must be submitted 2 hours prior to arrival for shipments arriving at the border by commercial or passenger vehicles and pedestrians including permit ports, and 4 hours prior to arrival if arriving at the border by rail
- **Air:** PN must be submitted 4 hours prior to arrival for shipments arriving by air
- **Vessel:** PN must be submitted 8 hours prior to arrival for shipments arriving by vessel
- **International Mail:** PN must be submitted at the time of mailing in the foreign country

PN Submission: Any person or entity possessing the required knowledge can make the submission of PN data to FDA. However, the PN submission must be complete and filed within the required timeframes to satisfy the PN reporting requirements of the BTA. PN data can either be submitted via:

- ACS at the time of entry via the Automated Broker Interface (ABI) – This method uses the current FDA OASIS interface and adds data elements for PN submission. This is designed to work with ABI entries filed by ABI filers.
- ACS/ABI independent PN (via the WP transmission) – This is a new interface with FDA that allows ABI filers to submit PN data independent of any entry data. For PN submissions made via the ABI independent interface, the

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submitter will receive a confirmation number from FDA, which must be provided with the entry documentation by the entry filer. Any ABI filer (including in-bond only filers) may use this interface to submit a PN for use with in-bond shipments, informal entries, Foreign Trade Zone (FTZ) admissions and any other entry type that is not fully automated.

- **FDA Prior Notice System Interface (PNSI)** – This is an Internet based system that allows anyone to supply PN information directly to FDA. For PN submissions made through PNSI, the submitter will receive a confirmation number from FDA, which must be provided with the entry documentation by the entry filer. This may be used for informal entries filed by non-automated importers (walk-up entries), in-bond shipments, FTZ admissions, carnets, Section 321 releases and any other type of non-automated entry or release.

Data from the PNSI and the ABI systems will be sent to an ACS prior notice database and will be regularly updated as to status. CBP Officers may query this confirmation number in the ACS prior notice database to determine any further actions that must be taken.

PN Enforcement Guidelines: Although the BTA will be implemented on December 12, 2003, enforcement of the PN reporting requirements of the BTA will be phased in over three separate phases. These enforcement phases can best be described as:

- **Initial Phase:** Education and Communication (Begins December 12, 2003)
- **Intermediate Phase(s):** Informed Compliance and Penalties and/or refused admission for egregious violators (timeframes to be announced)
- **Final Phase:** Full Enforcement of refused admission and penalties (timeframes to be announced)

Initial phase enforcement will begin with the implementation of the BTA on December 12, 2003. However, the timeline for moving to the ensuing phases of enforcing the PN reporting requirements of the BTA has not yet been finalized.

During the initial phase of enforcing the BTA, U.S. Customs and Border Protection (CBP) working with FDA at the NTC will generally only withhold the release of BTA-regulated merchandise if a BTA related threat or concern exists regarding the shipment. As this is not expected to occur for most imported food shipments processed during the initial BTA enforcement phases, the vast majority of such shipments will continue to be processed by CBP and released into the commerce of the United States.

During the initial phase, CBP and FDA will generally focus their collective enforcement resources on informed compliance and educational initiatives rather than enforced compliance in order to achieve voluntary compliance with the PN reporting requirements of the BTA. This means that as long as a “BTA Hold” has not been placed against a shipment of imported food, it may be released from

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CBP custody even if no PN was provided to FDA or the PN provided is considered inadequate by FDA.

During the intermediate phase(s), CBP and FDA will continue educating the public and the trade community about the PN reporting requirements of the BTA, but will also begin making targeted informed compliance efforts and issuing penalties to egregious violators. During this phase, CBP will still process and release most shipments of imported food products that violate the PN reporting requirements, provided that a "BTA Hold" has not been placed against the shipment by NTC/FDA.

Once full enforcement begins, all shipments of imported food that violate the PN reporting requirements of the BTA will be either held at the port of arrival or sent to a secure facility until they can be brought into full compliance with the reporting requirements of the BTA or are exported from the United States with CBP approval. In addition, penalties may continue to be issued for egregious violators.

Determining PN Compliance: For all entry types that are processed through ACS Cargo Selectivity using a CF 3461 or CF 3461 ALT, CBP Officers will be able to review any necessary PN compliance information in ACS. During the initial phases of enforcing PN reporting requirements, only "BTA Holds" will prevent the release of most imported food products. The release of shipments that do not satisfy PN reporting requirements will not be withheld until the later phases, when additional messages will be added to ACS and further instructions issued to field personnel.

For all entry types that are not processed through ACS Cargo Selectivity, the entry filer must provide a copy of the FDA confirmation number from either the FDA Prior Notice System Interface (PNSI) or ABI with the entry. This may be a screen print of the ABI screen or the FDA PNSI screen or the number may be written or printed on the entry or release documents. CBP Officers may query this number in the ACS prior notice database using new function codes. These databases will contain a status field that will provide the current status of the prior notice. The release of shipments that do not satisfy PN reporting requirements will not be withheld in initial phases of enforcing the PN requirements of the BTA. Release should only be withheld for shipments that are under a "BTA Hold".

Important Changes on December 12, 2003: Although CBP will continue to process and release most shipments of imported food, the ways in which it processes some shipments of imported food will change significantly on December 12, 2003. On that date, the following important changes will occur:

- ***Border Release Advanced Screening & Selectivity (BRASS):*** Beginning on December 5, 2003 and complete by December 12, 2003, BRASS and Rail AMS Line Release processing will no longer be allowed for the entry and

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release of imported food products that are subject to the PN reporting requirements of the BTA. All BTA-affected BRASS C-4 codes will be revoked by that date. Any subsequent shipments will be required to be processed through ACS Cargo Selectivity using either a CF 3461 or CF 3461 Alt (including PAPS).

- **Permit Ports:** Effective December 12, 2003, BTA-regulated merchandise will no longer be allowed to be released strictly under a permit with subsequent release processing via the ACS BREL function code, as is currently done for merchandise entering the country through permit ports along the Northern Border.

Importers holding a current valid permit for shipments of imported food will still be allowed to be entered and released at Northern Border permit ports after December 12, 2003, but they must also be processed through ACS Cargo Selectivity using either a CF 3461 or CF 3461 ALT. In addition, importers of food products entered at a Northern Border permit port must continue to maintain a valid permit on file with the appropriate Port Director. This is not to be construed as an expansion of the use of these ports to include merchandise not covered by the current permits. The only requirement of this change is that food products covered by the BTA must file entry using Cargo Selectivity. However, CBP will attempt to accommodate any permit holder who wishes to use Selectivity for any entry at permit ports on a case-by-case basis.

Facsimile transmissions of CF 3461 or CF 3461 ALT documents will be accepted by CBP Officers at permit ports as long as the shipment is accompanied by a manifest and invoice. Port Directors are authorized to determine other methods of communicating CF 3461 information to CBP Officers at permit ports.

Most permit ports do not have the equipment or space to perform examinations of imported merchandise, and lack secure facilities in which imported merchandise can be held until it can be brought into compliance with the BTA. In the case of a shipment, which is under a "BTA Hold", CBP Officers will hold the shipment at the permit port of arrival and arrange for examination. If necessary the merchandise will remain at the permit port of arrival until the examination can be completed. Depending on the nature of required examinations, some of these may be performed at a permit port. However, if this is not possible, the shipment should be sent under a CBP bond (including in-bond) to the nearest port of entry with adequate equipment and facilities with which to perform the examination. In consultation with permit ports and FDA, a comprehensive examination policy for permit ports will be developed.

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In addition, most permit ports do not have sufficient secure storage facilities located in close proximity to the port, which can be used to hold BTA-regulated merchandise until it can be brought into compliance with the BTA. In instances when BTA-regulated merchandise must be held at a secure facility and no such facility is available, the merchandise must be sent under a CBP bond (including in-bond) to the nearest port with an available secure facility or exported (see secure facility section). Shipments of BTA-regulated merchandise cannot be held at the importer's premises, which also include any storage facilities owned by the importer.

New ACS Functionality and Messaging: New ACS functionality has been developed and will be available on December 12, 2003. These include:

- **New ACS Function Codes**
- **BTA Holds:** A "BTA Hold" can be placed on an entry or it can be placed on a bill of lading or air waybill in ACS. In either case, when a "BTA Hold" is placed on a shipment, it removes an existing release date, or prevents ACS from establishing a release date. However, "BTA Holds" do not cause an entry to be designated as "Intensive" by ACS Cargo Selectivity.
- **BTA Hold Messages:** During the initial phases of enforcing the PN requirements of the BTA, only a "BTA Hold" will prevent the release of a shipment. The trade will receive a generic type 12 (other government agency) hold.
- **Downtime Policy:** Whenever ACS Cargo Selectivity processing is not operational, CBP Officers may have to release imported merchandise with manual release methods. However, when ACS Cargo Selectivity processing becomes operational again, any entries that were manually released during such a period of "downtime" must be processed through ACS Cargo Selectivity after the fact.

When the resulting Selectivity results are viewed any shipments with a "BTA Hold" that were inadvertently released during the downtime period may require further action as necessary. CBP will provide the necessary instructions.

- **Redelivery Policy:** CBP will only order the redelivery of BTA-regulated merchandise that is suspected by the FDA of posing a high threat to public safety. In such instances, which are expected to rarely occur, CBP will provide further instructions on how to best handle the redelivery of the merchandise in order to protect the safety of all involved.

Changes Planned for Later Phases – Prior to the final phase of implementation there will be some additional changes programmed into ACS that will impact processing. CBP Officers will be notified of these changes as they occur.

- **“Pen & Ink Changes”:** For entries transmitted to CBP through the Automated Broker Interface (ABI), changes to the ABI entry data, also known as “Pen & Ink Changes”, will not be permitted if there is a “BTA Hold or a BTA Hold Unset” associated to the shipment. This applies to all existing entry header and line level data, as well as bill of lading or air waybill data. If such changes are necessary, CBP must cancel the original entry and the filer must submit a new entry with the corrected entry data. It will be permissible for CBP users to add a line(s) if the tariff number does not have a BTA indicator in the harmonized file.

For entries transmitted to CBP through the Automated Broker Interface (ABI), changes to the ABI entry data, also known as “Pen and Ink Changes”, will not be permitted on entry header and line item data if there is BTA merchandise on the entry. It will be permissible to make corrections on the bill of lading or air waybill data.

- **ABI LN Bill of Lading Corrections:** For entries transmitted to CBP via ABI that have a “BTA Hold” or a “BTA Hold Unset”, changes to bill of lading data cannot be made with the “ABI LN Bill of Lading Correction” capability. However, such changes can be made on entries with BTA-regulated merchandise that does not have a “BTA Hold or a “BTA Hold Unset.”
- **“On Screen Changes”:** If the entry has a “BTA Hold” or a “BTA Hold Unset”, field personnel will not be allowed to use the ACS onscreen change function to make any changes to header, line level, or to bill of lading or air waybill data. If there is BTA merchandise on the entry but there is not a “BTA Hold or a “BTA Hold Unset” on the shipment, the ACS onscreen change function can be used to make changes to bill of lading or air waybill data. It will be permissible to add a line(s) if the tariff number does not have a BTA indicator in the harmonized file if system edits and OFO policy allows line item adds.

II. ENTRY PROCESSING PROCEDURES

BTA-Regulated Merchandise Processing Procedures: The following paragraphs contain specific procedures for processing BTA merchandise with specific types of entries.

Verifying PN Status: As stated earlier, for all entry types that are processed through ACS Cargo Selectivity using a CF 3461 or CF 3461 ALT, CBP Officers will be able to review any necessary PN compliance information in ACS. Most in-bond entries will provide automated results as well (see in-bond section). For all non-automated entries or fully paper entry or release processes, the FDA confirmation number (and/or envelope number) must be provided with the entry. This may be a screen print of the ABI screen or the FDA PNSI screen or the number may be written or printed on the entry or release documents.

Verification by CBP Officers will be affected by the implementation phases as follows:

- In the initial phase of implementation, CBP Officers will generally allow shipments to leave the port of arrival unless a “BTA Hold” is placed on the shipment. If a confirmation number is provided, CBP Officers should query ACS to determine if a “BTA Hold” has been placed on the shipment. If no confirmation number is provided, CBP Officers may allow the shipment to move as long as all other entry requirements are met. Carriers, importers and others presenting documents should be given a copy of information flyers.
- In the intermediate phases of implementation, CBP Officers will generally allow shipments to leave the port of arrival unless a “BTA Hold” is placed on the shipment. If a confirmation number is provided, CBP Officers should query ACS to determine if a “BTA Hold” has been placed on the shipment. If no confirmation number is provided, CBP Officers may allow the shipment to move as long as all other entry requirements are met. Carriers, importers and others presenting documents should be given a copy of the information flyers. Penalties and informed compliance will be handled at a national level.
- In the final phase (full enforcement) of implementation, the shipments may be held at the port of arrival, moved to a secure facility or exported with CBP concurrence if a confirmation number is not provided at the time of movement. If the confirmation number is provided, the CBP officer will query the number using ACS to determine the PN status. If the status is “not satisfied”, the shipment may be held at the port of arrival, moved to a secure facility or exported with CBP concurrence.

CF 3461 & CF 3461 ALT: In all phases of implementation and for all entry types that are processed through ACS Cargo Selectivity using a CF 3461 or CF 3461 ALT, CBP Officers must determine if there is a “BTA Hold” on the shipment. If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment.

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- In the initial phases of implementation, if the PN is not satisfied Selectivity processing will occur and the shipment will be released unless a “BTA Hold” is placed on the shipment. A warning message will be sent to the ABI filer indicating that PN is required and not satisfied for this shipment.
- In the final phase of implementation, if the prior notice is not satisfied the processing will not be completed and a “PN Not Satisfied” message will be sent.

For any entries that utilize a CF 3461 or CF 3461 Alt, but are not processed through ACS Cargo Selectivity, the entry filer must provide the FDA confirmation number with the entry. This may be a screen print of the ABI screen or the FDA PNSI screen or the number may be written or printed on the entry or release documents.

- In the initial phases, CBP Officers should query the confirmation number (if provided) in the ACS prior notice database. If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment. If no confirmation number is provided, CBP Officers may allow the shipment to move as long as all other entry requirements are met. Carriers, importers and others presenting documents should be given a copy of the information flyers. Penalties and informed compliance will be handled at a national level.
- In the final phases, CBP Officers must query the confirmation number in the ACS prior notice database. If the status is “Not Satisfied” the shipment should not be released (see PN not satisfied section). If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment.

CF 7501: In all phases of implementation, when a CF 7501 is used to simultaneously file the entry and entry summary for a shipment, CBP Officers must determine if there is a “BTA Hold” on the shipment. If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment.

- In the initial phases of implementation, if the PN is not satisfied Selectivity processing will occur and the shipment will be released unless a “BTA Hold” is placed. A warning message will be sent to the ABI filer indicating that PN is required and not satisfied for this shipment.
- In the final phase of implementation, if the prior notice is not satisfied the processing will not be completed and a “PN Not Satisfied” message will be sent. The shipment should not be released (see PN not satisfied section). If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment.

Non-ABI Informal Entries: For all informal entries (CF 368, CF 3299, CF 3311, etc) that are not processed through ACS Cargo Selectivity, CBP Officers must first determine if the merchandise is subject to the BTA and whether it qualifies

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for any listed exemption to the PN reporting requirements of the BTA. After having accomplished this, CBP Officers should check that the FDA confirmation number is provided with the entry. This may be a screen print of the ABI screen or the FDA PNSI screen or the number may be written or printed on the entry or release documents.

- In the initial phases, CBP Officers should query the confirmation number (if provided) in the ACS prior notice database. If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment. If no confirmation number is provided, CBP Officers may allow the shipment to move as long as all other entry requirements are met. Carriers, importers and others presenting documents should be given a copy of the information flyers. Penalties and informed compliance will be handled at a national level.
- In the final phases, if the confirmation number is provided, CBP Officers shall query the number in the ACS prior notice database. If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment. If the number is not provided or the status is “Not Satisfied”, the shipment should not be released (see PN not satisfied section).

Carnets: Since carnets are used for the temporary importation of merchandise that will be re-exported in the same form as when it was originally imported, food products are not generally imported under the cover of a carnet. To the extent that carnets are used to temporarily import BTA-regulated merchandise, the carnet should be accompanied by the FDA confirmation number showing that PN has been submitted for the shipment. This may be a screen print of the ABI screen or the FDA PNSI screen or the number may be written or printed on the entry or release documents.

- In the initial phases, CBP Officers should query the confirmation number (if provided) in the ACS prior notice database. If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment. If no confirmation number is provided, CBP Officers may allow the shipment to move as long as all other entry requirements are met. Carriers, importers and others presenting documents should be given a copy of the information flyers. Penalties and informed compliance will be handled at a national level.
- In the final phases, if the confirmation number is provided, CBP Officers shall query the number in the ACS prior notice database. If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment. If the number is not provided or the status is “Not Satisfied”, the shipment should not be released (see PN not satisfied section).

FTZ & Warehouse Withdrawal Entries: Foreign trade zone entries (06) and warehouse withdrawals and rewarehouse entries (22) are not performed at the time of arrival and are exempt from the PN reporting requirements of the BTA.

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PN must be satisfied before the admission to the FTZ (or movement in-bond) or prior to filing a warehouse entry (Type 21).

FAST/NCAP Shipments: Due to NCAP rules that do not allow shipments subject to other government agency requirements, there should be no FAST/NCAP shipments subject to PN.

FAST/PAPS Shipments: PAPS is a release process that accesses ACS Selectivity through a manifest number. The processing steps for CF 3461 and CF 3461 ALT apply to FAST/PAPS shipments as well.

Section 321 Releases: Section 321 releases from the manifest are allowed for BTA-regulated merchandise, but each line item requiring PN must be accompanied by the PN confirmation number issued by ABI or the FDA PNSI. This may be a screen print of the ABI screen or the FDA PNSI screen or the number may be written or printed on the entry or release documents.

- In the initial phases, CBP Officers should query the confirmation number (if provided) in the ACS prior notice database. If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment. If no confirmation number is provided, CBP Officers may allow the shipment to move as long as all other entry requirements are met. Carriers, importers and others presenting documents should be given a copy of the information flyers. Penalties and informed compliance will be handled at a national level.
- In the final phases, if the confirmation number is provided, CBP Officers shall query the number in the ACS prior notice database. If there is a “BTA Hold” on the shipment, CBP Officers must arrange to hold and examine the shipment. If the number is not provided or the status is “Not Satisfied”, the shipment should not be released (see PN not satisfied section).

Monthly Manifest: There should be no Monthly Master Manifest shipments subject to PN.

III. FDA/BTA EXPRESS CONSIGNMENT PROCEDURES

General Processing Information

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act or the Act) requires that the Food and Drug Administration (FDA) receive prior notice of food imported or offered for import into the U.S. beginning on December 12, 2003. While most of the information required by the Act is invoice data currently provided by express consignment operators prior to arrival, the Act requires that FDA also receive advanced information on import shipments. The purpose of this requirement is to provide FDA personnel with time to review, evaluate, and assess information before a food product arrives allowing for better targeting and interception of contaminated food products.

The prior notice provision of the Act covers food and beverages for human or animal consumption. This includes all express consignment shipments, for both commercial and personal use, regardless of value. Shipments containing gifts other than homemade, samples, food for transshipment through the United States, food imported for future export, or food for use in a foreign trade zone are also covered by the Act.

The implementation of the BTA regulations will be phased in over a period of months. The phases will affect express consignment facilities as follows:

- During the **initial phase** of implementation (after December 12, 2003) - most shipments arriving by express couriers will be allowed to move to their destination without having a properly submitted prior notice unless shipments are determined by targeting to pose a risk to the food supply will be held as they are identified. Carriers, shippers, importers and others will be given automated and paper reminder notices. CBP and FDA will use informed compliance during this time in an attempt to gain full compliance with the new regulations.
- In the **intermediate phases**, refusal of admission and targeted penalties may be generated for some shipments if compliance has not improved.
- In the **final phase** (full enforcement), all shipments for which PN is inadequate will be refused admission and penalties may be issued for egregious violators. In all phases of implementation, shipments that are determined by targeting to pose a risk to the food supply will be held as they are identified.

Processing Procedures:

In the **initial phase** of implementation, law and regulation require PN for all food shipments. During this phase however, CBP Officers will release most

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shipments unless they are identified as a threat to the food supply. Release processing will be performed under current guidelines until the final phases of implementation requires refusal of admission for shipments where PN is inadequate. PN confirmation numbers should be provided for each shipment where they are available. This may be a screen print of the ABI screen or the FDA PNSI screen or the number may be written or printed on the entry or release documents. In this initial phase, CBP Officers may be asked to spot check PN confirmation numbers. These spot checks will be random and assigned at the national level to measure compliance. Informed compliance and education efforts will be conducted nationally and by local BTA coordinators.

In the ***intermediate phase***, CBP Officers will continue to use current processing guidelines and allow release of most shipments unless they are identified as a threat to the food supply. PN confirmation numbers should be provided for each shipment where they are available. This may be a screen print of the ABI screen or the FDA PNSI screen or the number may be written or printed on the entry or release documents. In this phase, CBP Officers will be asked to spot check PN confirmation numbers. These random spot checks will be assigned at the national level and increased in frequency to measure and ensure compliance. Informed compliance and education efforts will be conducted nationally and by local BTA coordinators. Penalties and targeted refusals will be ordered as needed to enforce compliance for egregious violators.

In the ***final phase*** (full enforcement), CBP processing in express consignment facilities will change as follows:

- There is no de minimus for merchandise subject to BTA, therefore, all shipments regardless of value, must meet the Prior Notice (PN) requirement. This includes samples, mail, household goods, gifts and etc. CBP Officers will be required to validate each PN in ACS. Individual manual checks from the manifest to the PN file in ACS will be extremely inefficient and will threaten the completion of work during the regular sort time periods in many ECCF/ECCH operations. Compliance with the BTA may require that separate ABI entries be filed for each shipment. CBP's authority for this action resides in 19 CFR 143.22 in which formal entry may be required for import admissibility enforcement purposes. CBP is currently working with industry representatives to determine how Section 321 clearances from the manifest and consolidated informal entries might be retained under BTA.
- CBP inspectors assigned to manifest or entry review will ensure that a Prior Notice Confirmation Number (PNCN) is listed on the manifest or other entry documentation for all applicable food shipments.
- All applicable food shipments found not to have a properly assigned PNCN number listed, at the time of entry or manifest review, will be refused admission under Section 801(m)(1) of the Act (21 U.S.C. 381(m)(1) and held

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by the carrier at the express consignment facility or other secure storage location.

- All applicable food shipments will be refused admission under Section 801(m)(1) of the Act (21 U.S.C. 381(m)(1)) and held at the express consignment facility or other secure storage location if FDA reports the following to CBP:
 - The shipment received a confirmation number based on the submission of inaccurate data
 - The PN was not submitted to FDA within the established time frame (no less than four hours prior to arrival)
- CBP will notify the carrier of each shipment held under the auspices of the Bioterrorism Act citing the applicable reason.
- A held shipment may not be released to the importer, owner or consignee until FDA has notified CBP that the refusal is rescinded. If the express consignment carrier is the importer of record for release purposes they will not be considered as the importer or ultimate consignee for release or for storage issues.
- All shipments found non-compliant by FDA may be immediately exported from the port of arrival under CBP supervision.
- If an article of food that is refused is part of a shipment that contains other articles that are admissible, the refused articles may be segregated from the rest of the shipment under FDA or CBP supervision.
- Any article of food that has been refused under Section 801(m)(1) shall immediately be considered general order merchandise as described in Section 490 of the Tariff Act of 1930, as amended. Follow the Inadequate PN section of this publication for more information.

IV. FDA/BTA IN-BOND PROCEDURES

General Processing Information

Immediate Export (IE) movements are exempt from prior notice (PN) reporting requirements of the Bioterrorism Act (BTA).

For all transportation (IT and T&E) in-bond movements regardless of mode or method of transmission the carrier must provide an indicator that the shipment contains "merchandise subject to FDA/BTA". In the automated environment, AMS, ABI (QP) and CAFES have been modified to accept a Y or N field labeled BTA. For CBP input using the INBE screen, the indicator field has been created. The party preparing the in-bond document will be responsible to provide notice with the CF 7512 that merchandise on the shipment is subject to the prior notice requirements of the BTA. Someone (shipper, importer, broker etc) will file prior notice (PN) using ABI or FDA's Prior Notice System Interface (PNSI) that references the in-bond number, bill of lading, air waybill or other unique identifier. No messages will be sent authorizing movement of the in-bond until prior notice is satisfied. In most cases ACS/AMS will query a newly developed ACS PN database to find PN information on file and return a status message to the CBP Officer, AMS and the trade.

During the initial implementation of the regulations (after December 12, 2003) most IT and T&E movements will be allowed to move to their destination without having a properly submitted prior notice. This phased-in implementation will last for a limited period of time. Carriers, shippers, importers and others will be given reminders. CBP and FDA will use informed compliance during this time in an attempt to gain full compliance with the new regulations. Eventually, hold messages may be generated and penalties may be issued for some in-bond shipments if compliance has not improved. In addition, shipments that are determined by targeting to pose a risk to the food supply will be held as they are identified.

After the initial phases of implementation are complete, IT and T&E in-bonds will be handled differently. No shipments will be allowed to move from the port of arrival without submitting any prior notice. If the PN is inadequate or not filed timely (no response received from FDA) T&E movements will be held at the port of arrival until the prior notice is satisfied. IT in-bond movements may be allowed to move to their intended port of entry where the PN can be satisfied by the entry filer if no enforcement reasons exist to hold at the port of arrival.

Fully Automated In-bond Movements

Sea/Rail/Truck: The indicator that shipment contains merchandise subject to the FDA/BTA should be set to "yes" by the carrier. AMS (and QP) will query the ACS

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prior notice database by in-bond number and bill of lading. If the in-bond number/BOL (IT or T&E) is not in the database:

- *Initial phase (IT and T&E)* – The in-bond record will be created and the movement will be authorized unless a “BTA Hold” is ordered.
- *Intermediate phase (IT and T&E)* – The in-bond record will be created and the movement will be authorized unless a hold is ordered by the NTC/FDA. A “Warning - Prior Notice Submission is Required” message will be sent to the carrier and posted in the public remarks.
- *Full enforcement phase, IT and T&E movement* – A “PN not satisfied, Hold” will be created and sent to public remarks. No movement authorization will be granted and the shipment will be held until the PN is satisfied. When the PN is satisfied, the hold will be automatically removed.

If the in-bond record is in the database the status of the prior notice will be checked.

- If the status is “PN Satisfied”, a movement authorization message will be generated and the shipment will be allowed to move. This is true for IT and T&E movements.

If the status is “PN incomplete” or “PN not timely” (within time frames):

- *Initial phase (IT and T&E)* – The in-bond record will be created and the movement will be authorized unless a “BTA Hold” is ordered.
- *Full enforcement phase, IT movement* - The in-bond record will be created. A “Warning, FDA/BTA prior notice not satisfied” message will be created and sent to public remarks and the movement will be authorized unless a “BTA Hold” is ordered. The prior notice will be required prior to entry and the merchandise may not proceed to the importer’s premises but must be held at a secure facility at the port of entry.
- *Full enforcement phase, T&E movement* – A “PN not satisfied, Hold” will be created and sent to public remarks. No movement authorization will be granted and the shipment will be held at the port of arrival until the PN is satisfied. When the PN is satisfied, the hold will be automatically removed.

If the status is “BTA Hold”:

- A generic type 12 (Other Government Agency) hold will be sent to the carrier. CBP or FDA (or both) will coordinate to examine or sample the merchandise in accordance with policies to be developed. If the merchandise is rejected or not allowed to move, the in-bond transaction will be cancelled.

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Air: The indicator that shipment contains merchandise subject to the FDA/BTA should be set to “yes” by the carrier. AMS will query the ACS prior notice database by in-bond number and air waybill. If the in-bond number/AWB (IT or T&E) is not in the database:

- *Initial phase (IT and T&E)* – The in-bond record will be created and the movement will be authorized unless a “BTA Hold” is ordered.
- *Full enforcement phase, IT and T&E movement* – A “PN not satisfied, Hold” will be created and sent to public remarks. No movement authorization will be granted and the shipment will be held until the PN is satisfied. When the PN is satisfied, the hold will be automatically removed.

If the in-bond record is in the database the status of the prior notice will be checked.

- If the status is “PN Satisfied”, a movement authorization message will be generated and the shipment will be allowed to move. This is true for IT and T&E movements.

If the status is “PN incomplete” or “PN not timely” (within time frames):

- *Initial phase (IT and T&E)* – The in-bond record will be created and the movement will be authorized unless a “BTA Hold” is ordered.
- *Full enforcement phase, IT movement* - The in-bond record will be created. A “Warning, FDA/BTA prior notice not satisfied” message will be created and sent to public remarks and the movement may be authorized unless a “BTA Hold” is ordered. The prior notice will be required prior to entry and the merchandise may not proceed to the importer’s premises but must be held at a secure facility at the port of entry.
- *Full enforcement phase, T&E movement* – A “PN not satisfied, Hold” will be created and sent to public remarks. No movement authorization will be granted and the shipment will be held at the port of arrival until the PN is satisfied. When the PN is satisfied, the hold will be automatically removed.

If the status is “BTA Hold”:

- A generic type 12 (Other Government Agency) hold will be sent to the carrier. CBP or FDA (or both) will coordinate to examine or sample the merchandise in accordance with policies to be developed. If the merchandise is rejected or not allowed to move, the in-bond transaction will be cancelled.

Paper CF 7512: The carrier or CF 7512 preparer has three options for notifying CBP of the presence on an in-bond document of merchandise subject to the BTA:

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- They may print or stamp the following statement at the bottom of the description block; “This Shipment Contains Merchandise Subject to The FDA/BTA”.
- They may put the above statement on a sticker affixed to the in-bond documents or on a cover page attached to the in-bond document.
- They may attach a copy of the FDA Prior Notice System Interface or ABI printout as a cover page for the in-bond documents.

The CBP Officer will input a “Y” in the BTA field in ACS. When ACS processes the in-bond it will query the prior notice database by in-bond number and bill of lading or air waybill. If the in-bond number/BOL or AWB (IT or T&E) is not in the database:

- *Initial phase (IT and T&E)* – The in-bond record will be created and the movement will be authorized unless a “BTA Hold” is ordered. The information will also be displayed in public remarks if the AWB or BOL has been electronically transmitted.
- *Full enforcement phase, IT and T&E movement* – A “PN not satisfied, Hold” will be displayed to the CBP Officer. The information will also be displayed in public remarks if the AWB or BOL has been electronically transmitted. No movement authorization will be granted and the shipment will be held until the PN is satisfied. When the PN is satisfied, the hold will be automatically removed.

If the in-bond record is in the database the status of the prior notice will be checked.

- If the status is “PN Satisfied”, a movement authorization message will be generated and the shipment will be allowed to move. This is true for IT and T&E movements.

If the status is “PN incomplete” or “PN not timely” (within time frames):

- *Initial phase (IT and T&E)* – The in-bond record will be created and the movement will be authorized unless a “BTA Hold” is ordered.
- *Full enforcement phase, IT movement* - The in-bond record will be created. A “Warning, FDA/BTA prior notice not satisfied” message will be displayed to the CBP Officer. The information will also be displayed in public remarks if the AWB or BOL has been electronically transmitted and the movement may be authorized unless a “BTA Hold” is ordered. The prior notice will be required prior to entry and the merchandise may not proceed to the importer’s premises but must be held at a secure facility at the port of entry.
- *Full enforcement phase, T&E movement* – A “PN not satisfied, Hold” will be displayed on the INBE screen. The information will also be displayed in public remarks if the AWB or BOL has been electronically transmitted. No movement authorization will be granted and the shipment will be held until the

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PN is satisfied. When the PN is satisfied, the hold will be automatically removed.

If the status is “BTA Hold”:

- A “BTA Hold” will be displayed to the CBP Officer. The information will also be displayed in the public remarks and a generic type 12 (Other Government Agency) hold will be sent to the carrier if the BOL or AWB was transmitted electronically. CBP or FDA (or both) will coordinate to examine or sample the merchandise in accordance with policies to be developed. If the merchandise is rejected or not allowed to move, the in-bond transaction will be cancelled.

CF 7512B (US/Canada Intransit Manifest): The CF 7512B is used at land border locations on the northern border. Based on agreements between the two governments and codified in 19 CFR Part 123, it establishes simplified procedures for bonded movement through contiguous countries. The same form is used by both governments and allows a single document to control movement through and into both countries. It is affected by the BTA as follows:

- Canadian Merchandise Intransit through the U.S. – Current processing treats this movement as a Transportation and Exportation (T&E) movement. All rules for land border T&E movements (see above) apply.
- U.S. Origin Merchandise Intransit through Canada – Since this movement into Canada does not meet the definition of exportation, arrival at the U.S. port of destination does not constitute an importation. As a result, PN is not required for this merchandise.

V. FDA/BTA INTERNATIONAL MAIL PROCEDURES

General Procedures:

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act or the Act) requires that the Food and Drug Administration (FDA) receive prior notice of food imported or offered for import into the U.S. beginning on December 12, 2003. The purpose of this requirement is to provide FDA personnel with time to review, evaluate, and assess information before a food product arrives allowing for better targeting and interception of contaminated food products.

The prior notice provision of the Act covers food and beverages for human or animal consumption. This includes all international mail, for both commercial and personal use, regardless of value. Mail packages containing gifts other than homemade, samples, food for transshipment through the United States, food imported for future export, or food for use in a foreign trade zone are also covered by the Act.

Processing Procedures

During the **initial phase** of implementation (after December 12, 2003), most mail will be allowed to move to its destination without having a properly submitted prior notice. CBP and FDA will use informed compliance and education during this time in an attempt to gain full compliance with the new regulations. PN confirmation numbers should be provided for each shipment where they are available on the CN 22 or CN 23. CBP Officers should query these when available using ACS to determine if a “BTA Hold” has been ordered against the mail shipment. Eventually, hold messages may be generated for some shipments if compliance has not improved. In addition, mail that is determined by targeting to pose a risk to the food supply will be held as they are identified.

In the **final phases** of implementation, importation will be handled differently. No international mail will be allowed entry without submitting prior notice.

For imported food arriving via international mail, the interim final rule requires that prior notice be submitted before the food has been sent. This timeframe allows the FDA PN Confirmation Number to accompany the package, which is necessary to establish that prior notice has been submitted and to match the prior notice submission to the package upon arrival.

In the case of food arriving by international mail, if prior notice is inadequate, or if the PN Confirmation Number is not affixed, the article will be held by CBP for 72 hours for FDA inspection and disposition. If refused and there is a return address, the parcel may be returned to sender. If there is no return address or the food in the shipment appears to present a hazard, FDA may dispose of or

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destroy the parcel at its expense. If FDA does not respond within 72 hours of the CBP hold, CBP may return the parcel back to the sender or, if there is no return address, destroy the parcel, at FDA expense.

Food that is imported or offered for import, for which prior notice is absent or inadequate, shall be refused admission into the United States. The food must be held at the port of entry or in a secure facility so as to provide sufficient safety and security and may not be delivered to the importer, owner, or consignee.

The following procedures will be implemented at all International Mail Branches:

- CBP inspectors will ensure that a Prior Notice Confirmation Number (PNCN) is listed on the CN22 or CN 23 or other entry documentation for all applicable food shipments.
- CBP Officers should query the PNCN when provided using ACS and process according to status.
- All applicable food shipments found not to have a properly assigned PNCN number listed, at the time of inspection, will be refused admission under Section 801(m)(1) of the Act (21 U.S.C. 381(m)(1)).
- In the case of food arriving by international mail, if prior notice is inadequate, or if the PN Confirmation Number is not affixed, may be returned to sender.
- If an article of food that is refused is part of a shipment that contains other articles that are admissible, the refused article will be held by CBP for 72 hours for FDA inspection and disposition.
- If refused and there is a return address, the parcel articles may be segregated from the rest of the shipment under FDA or CBP supervision and stamped with a "Refused for BTA" stamp.
- If there is no return address or the food in the shipment appears to present a hazard, FDA may dispose of or destroy the parcel at its expense.
- If FDA does not respond within 72 hours of the CBP hold, CBP may return the parcel back to the sender or, if there is no return address, destroy the parcel, at FDA expense.
- All held items prior to destruction must be maintained in the designated secure area of the facility and handled in accordance with CBP policy.

VI. FDA/BTA FTZ PROCEDURES

General Processing Information:

All merchandise destined to a foreign-trade zone (FTZ) using an in-bond movement must follow the procedures outlined in the FDA/BTA IN-BOND PROCEDURES.

Merchandise that has been granted direct delivery arriving at a zone using an in-bond movement may continue to be moved using direct delivery since the FDA prior notification will be given on the in-bond movement.

Operators must assure that a prior notice (PN) has been submitted to FDA and present proof of the prior notification to CBP prior to moving the merchandise from the place of arrival to the zone.

Merchandise which arrives directly at the port and is transported using a dray ticket or CF 6043 and is subject to the FDA/BTA is no longer eligible for direct delivery.

Operators will prepare a CF 6043/dray ticket for the merchandise. Somewhere on the CF 6043 the operator must indicate "Merchandise Subject to FDA/BTA." PN must be submitted via ABI or the FDA Prior Notice System Interface (PNSI). Once the confirmation number is obtained the operator must present the CF 6043 and the FDA confirmation number to CBP. This may be a screen print of the ABI screen or the FDA PNSI screen or the number may be written or printed on the CF 6043.

The CBP Officer should query the FDA confirmation number in ACS. If the status of the confirmation is "PN satisfied" CBP will sign the CF 6043 and the operator may proceed to move the merchandise from the place of arrival to the zone with the normal filing of a CF 214.

If the status is "PN incomplete" or "PN not timely" (within time frames):

- *Initial phase* – The operator will provide the confirmation number with the CF 6043 and present it to CBP. CBP will authorize the movement of the merchandise unless a "BTA Hold" is ordered.
- *Full enforcement phase* – The operator will provide the confirmation number with the CF 6043 and present it to CBP. CBP will not allow the movement of the merchandise to the zone. CBP must place the merchandise in a secure facility. The prior notice must be satisfied prior to admission and the merchandise may not proceed to the importer's premises but must be held at the port of entry, at a secure facility or exported with CBP concurrence.

If the status is "BTA Hold":

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- The operator must prepare the CF 6043, provide the confirmation number and present it to CBP. CBP or FDA (or both) will coordinate to examine or sample the merchandise in accordance with procedures. If the hold is released after examination CBP will sign the CF 6043 for movement of the merchandise to the zone. Normal CF 214 filing procedures must then be followed.

VII. INSTRUCTIONS FOR PRIOR NOTICE NOT SATISFIED

General

In the full enforcement phase of implementation, merchandise subject to prior notice (PN) reporting requirements under the Bioterrorism Act (BTA) will not be allowed entry until PN is satisfied. There are three ways that the PN could be deemed to be inadequate:

- The PN is not submitted for shipment where it is required
- The PN is submitted but is inaccurate as to one or more required data elements
- The PN is submitted and is accurate but is submitted prior to the expiration of the regulatory time frames (2, 4, or 8 hours prior to arrival or at the time of foreign mailing)

If merchandise arrives at a U.S. port of arrival and the PN is inadequate, the importer/carrier has three regulatory options:

- The shipment may be held at the Port of Entry if the port director determines there is sufficient room to hold the shipment.
- They may immediately export the shipment without entry into the United States.
- The importer may elect to send the merchandise to a secure facility (at their own risk and expense) pending satisfactory PN. Please note, all facilities that hold merchandise subject to the BTA must register with the FDA under the registration requirements of the BTA regardless if they will be utilized as secure facilities.

Shipment Retained Within the Port of Arrival

Once it has been established that PN is not satisfied and the importer with CBP and FDA concurrence requests to hold the merchandise at the port of arrival pending satisfactory PN, the shipment for CBP purposes becomes General Order (G.O.) merchandise under 19 CFR 127.1(c). In the air and sea environment, the merchandise may be retained at the terminal facility of the carrier. For land border shipments, the CBP facility at the point of arrival (CBP Port of Entry or equivalent) is the port of arrival. If the land border carrier (bonded) has a terminal facility within the port limits, the merchandise may be held there pending satisfactory PN. The G.O. designation is for legal status purposes. The merchandise does not have to be transported to a G.O. warehouse. However, it may be transported to a G.O. warehouse at the request of the consignee, carrier, or if directed by the port director.

Requirements for a Secure Facility

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All facilities that hold merchandise subject to the BTA must register with the FDA under the registration requirements of the BTA. However, all registered facilities cannot be utilized as secure facilities. Bonded warehouses (other than General Order warehouses) and foreign trade zones cannot be used as secure facilities because admission of the merchandise into those facilities requires PN. Secure facilities will be used to hold merchandise pending satisfactory PN. The FDA has three criteria for a secure facility. The building must be bonded, registered with the FDA, and the importer/consignee of the merchandise may not also own the facility holding their shipment. Some examples of qualifying facilities include:

- General Order Warehouses (G.O.)
- Container Freight Stations (CFS)
- Centralized Examination Stations (CES)
- Bonded carrier terminal facilities and other facilities covered by a Type 2 (custodial) or Type 3 (International Carrier) bond

Current facilities that conduct examinations or where unentered merchandise is placed under bond pending release should be encouraged to register their facilities with FDA in order to continue to handle food and food product. It is the responsibility of the receiving facility to register with the FDA. CBP currently does not have the ability to verify, and the FDA currently will not confirm to CBP, if a facility has registered with the FDA.

Movement to a Secure Facility Within Port Limits

If the carrier does not have a terminal facility with the port of arrival (or if in the normal course of business the merchandise would be sent to a secure facility such as a container freight station (CFS) for entry or further movement), merchandise with inadequate PN will be sent to a secure facility pending satisfaction of PN. The choice of secure facility normally rests with the carrier/importer. If the shipment must be moved for examination for either agency, CBP or FDA will decide where or if the merchandise will be moved. The movement must be performed under a CBP bond, and will be accomplished on a CF 6043 or an electronic equivalent. The move may be performed by a bonded cartman, bonded carrier or anyone who falls under the guidelines of 19 CFR 112.2(b) (bonded facility operator picking up and transporting merchandise to their facility).

Movement to a Secure Facility Outside Port Limits

If a shipment cannot be held within the port limits, the shipment will be sent to the nearest suitable facility outside the port. The movement will be performed on a CF 7512. For tracking purposes, no automated CF 7512s will be allowed for these movements. Additionally, all of these in-bond shipments must be input into the automated system by the initiating port, and the port must verify that the merchandise arrived within 48 hours of initiation of the in-bond movement. Any

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shipment for which PN is not satisfied and that is moving in-bond to the nearest suitable facility outside the port must have the statement below in the field section of the CF 7512:

“This shipment is not currently admissible due to failure to satisfy the prior notice requirements of the BTA and must be delivered intact within 48 hours with seals intact to the port and facility designated. Failure to comply could lead to criminal and/or civil charges.”

It will be the responsibility of the port receiving the in-bond shipment to track the shipment and ensure prior notice is satisfied prior to entry.

Procedures to Monitor Shipments Sent to Secure Facilities

Merchandise for which PN is not satisfied or having inadequate PN will be designated G.O. merchandise under 19 CFR 127.1(c). This will be at the time of attempted entry (consumption, transportation, etc.). If the merchandise stays at the carrier's facility or is sent to a facility that does not have G.O. status, it will be held under constructive G.O. Constructive G.O. procedures allow merchandise to be held by a carrier or other appropriate party under the same requirements as a G.O. warehouse. Ports will track merchandise held for inadequate PN separate from normal G.O. tracking (separate tracking sheet). The port is not obligated to assign a G.O. number to a shipment for which PN has not been satisfied unless the merchandise has been sent to a G.O. warehouse. The tracking sheet should include the G.O. number (if assigned), bill number, location of freight, date the merchandise was designated as G.O., and type of merchandise. If PN is satisfied after merchandise is placed in G.O, the PN number, date of release of merchandise, and appropriate entry number should be annotated on the tracking sheet. The port is not obligated to physically send the merchandise to a G.O. warehouse if PN is inadequate. Merchandise with inadequate PN and designated as G.O. may remain at the carriers' facility, container station, or other suitable facility designated by the port director pending final resolution. If the carrier does not have a terminal facility or is unable to hold the type of commodity due to special handling requirements (perishable, frozen commodity), the shipment will be sent to a suitable secure facility as directed by the port director.

Procedures to Release Shipments in Secure Facility

Merchandise with inadequate PN will be designated G.O. merchandise under 19 CFR 127.1(c). Any entry out of G.O. (consumption, transportation) requires that the PN be satisfied prior to processing of the entry. Some of the rules that apply are as follows:

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- If a consumption entry is filed, the port must ensure all duties and taxes, as well as all associated charges (storage, cartage, etc.) are paid before the release of the merchandise {19 CFR 127.14(b)}.
- If a transportation entry is filed (CF 7512) within six months of importation, the importer may file either a T&E, or IT provided PN is satisfied {19 CFR 127.2(a)}. If a T&E is filed after six months from importation, all duties and taxes due must be paid before exportation {19 CFR 127.14(b)}.
- If an IT is filed after six months from importation, it may only be for consumption at the destination port {19 CFR 127.2(b)}.
- If the G.O. time period expires (six months from date of importation) and PN has not been satisfied, the merchandise will follow G.O. guidelines for final disposition. The port will determine if the merchandise is saleable. If not, the merchandise will be destroyed.
- If merchandise is still in the carriers' possession, they may export in lieu of destruction. Destruction costs will be borne by the facility holding the merchandise (including the carrier's facility).
- If the merchandise is saleable, it will be sold by the CBP contractor for export only.
- Perishable merchandise in secure storage will follow the guidelines of 19 CFR 127.28(c). It will not follow the six-month time period. It will either be destroyed or sold after 3-days public notice for export only after the fifteen day time of entry period has expired. Additionally, if the merchandise is still in the carriers' custody, they may export in lieu of destruction. Destruction costs will be borne by either the carrier or facility holding the merchandise.

Once merchandise has been released from secure storage, a copy of the release document (entry, in-bond, destruction notice, export documentation) will be retained by the port. Additionally, the type and date of release will be annotated on the ports' log for merchandise in secure storage.

Rail Shipments without PN

Any rail shipment for which PN has not been satisfied will be allowed to proceed to the nearest practicable location where it may be held and will be held there until PN is satisfied. The shipment will be tracked using Rail AMS. Additionally, rail carriers will notify the port director of the intended location where the freight will be retained pending satisfaction of PN. Rail carriers should be encouraged to identify these locations to Port Directors as soon as possible.

Segregation of Shipments

The BTA allows for segregation of shipments where commingled commodities within the shipment are not required to submit PN. CBP does not consider this a manipulation and it may be performed in any location the Port Director feels is suitable to accomplish the task (import lot, secure facility). The Port Director may allow the segregation of the shipment to allow the entry or movement of the

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merchandise not subject to PN. A CF 3499 will be submitted requesting the segregation. A new entry for the segregated merchandise will be required.