



**CHEESE IMPORTERS  
ASSOCIATION OF AMERICA**

Bulletin 17-8 April 3, 2017

**CIAA Bulletin**

**An Exclusive CIAA Member  
Update**

## **FDA Recognizes DUNS Number as Acceptable for Importer Identification**

The U.S. Food and Drug Administration issued the following information to help ensure the accuracy of its inventory of importers responsible for meeting the requirements of the Foreign Supplier Verification Programs (FSVP) rule.

The FDA issued guidance formally recognizing the Data Universal Numbering System (DUNS) number as an acceptable unique facility identifier (UFI) for FSVP. The identification of importers will help the FDA effectively implement, monitor compliance with, and enforce the FSVP requirements, which are designed to help ensure that imported foods meet U.S. safety standards.

[Read complete update.](#)

For More Information:

- [Guidance for Industry: Recognition of Acceptable Unique Facility Identifier \(UFI\) for the Foreign Supplier Verification Programs Regulation](#)
- [Compliance Dates for the Final Rule on Foreign Supplier Verification Programs \(FSVP\) for Importers of Food for Humans and Animals](#)
- [FSVP Factsheet](#)
- [Am I Subject to FSVP?](#)

[More FSMA and Animal Feed Information](#)

## **Prior Notice of "Grey Market" Food Imports**

OFW Law's [Michael J. O'Flaherty](#) published the following blog that may be of interest to you.

FDA published a [final rule](#) on March 30 making some technical amendments to its prior notice of imported food regulations. The prior notice [regulations](#) implement section 801(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. [381\(m\)](#)), which requires that FDA receive prior notice of food imported into the United States.

Coordinating the Automated Broker Interface/Automated Commercial Environment/International Trade Data System (ABI/ACE/ITDS), which FDA utilizes for implementing prior notice of imported food, with the Intellectual Property Right e-Recordation (IPRR) system, which U.S. Customs and Border Protection (CBP) utilizes to exclude, detain and/or seize imported merchandise that infringes federally registered and recorded trademarks -- and partnering with the food industry -- conceivably could help address the proliferation of "grey market" foods presently entering the U.S. marketplace.

"Grey market" foods essentially are non-counterfeit foods sold outside normal distribution channels by entities that often have no relationship with the producer of the foods. This form of importation frequently occurs when the price of a food is significantly higher in one country than another. The entities buy the food where it is available cheaply, often at retail, but sometimes at wholesale, and import it legally into the U.S. marketplace. They then sell it at a price high enough to provide a profit, but below the normal market price. These "grey market" foods are non-counterfeit because they're actually produced by the company whose trademark they bear.

The problem with these "grey market" foods is that, while non-counterfeit, they often do not comply with U.S. food laws because the producing company intended them for a foreign marketplace. While many foreign markets have foods labeled in English, their food regulatory authorities do not require the same mandatory information and/or presentation as FDA. Similarly, many foreign countries permit food ingredients (e.g., color additives) not authorized in the U.S. In the event of determining an adulteration/misbranding or, more tragically, a serious adverse health consequence, FDA reasonably has no target because the implicated food was imported unbeknownst to the company that produced it. Nonetheless, that company will suffer negative publicity.

The U.S. Patent and Trademark Office [urges](#) owners of registered trademarks to record them with CBP. FDA and CBP ought to interface their respective ABI/ACE/ITDS and IPRR systems (including data input requirements) so as to enable CBP to notify the designated representative of a trademark owner when a food bearing the trademark is destined for U.S. import. The designated representative/owner, in turn, could then notify CBP/FDA that the food being offered for entry warrants inspection as a "grey market" food.

While implementing CBP/FDA coordination of electronic systems will not curtail all "grey market" foods mischief, it reasonably would be a good start....

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#### **DATES TO REMEMBER**

May 4, 2017  
Member Meeting  
9:30 am - 11:30 am

Saddle Brook Marriott, Saddle Brook, NJ

**May 5, 2017**

CIAA Dinner Dance

Macaluso, Hawthorne, NJ

Dinner Dance [Registration](#)

**July 1, 2017**

Last day for an exporting country that is not designating importers for calendar year 2017 to notify FAS.

**August 31, 2017**

Last day to Enter dairy products into U.S. Customs territory that may be used to qualify and establish eligibility for a calendar year 2017 license.

\* If a deadline date falls on a Saturday, Sunday, or Federal holiday, the deadline will be the next business day (Section 6.36(a) of the Dairy Tariff-Rate Import Quota Licensing Regulation). This does not apply to dates of entry for eligibility.

**Cheese Importers Association of America**

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