

# Prior Notice Policy for Sending Gifts to Your Friends and Family

Final Rule: Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (<http://www.gpo.gov/fdsys/pkg/FR-2008-11-07/pdf/E8-26282.pdf>) (published on November 7, 2008, effective May 6, 2009)

Final Rule: Information Required in Prior Notice of Imported Food (<https://www.federalregister.gov/articles/2013/05/30/2013-12833/information-required-in-prior-notice-of-imported-food>) (published May 30, 2013)

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**U.S. Food and Drug Administration (FDA) policy for submission of prior notice for food imported for non-commercial purposes with a non-commercial shipper:** FDA and Customs and Border Protection (CBP) typically consider not taking any regulatory action when there is a prior notice violation (e.g., no prior notice) and the food is imported for non-commercial purposes with a non-commercial shipper. Generally, a non-commercial purpose is one where the food is purchased or otherwise acquired by an individual for non-business purposes, and a non-commercial shipper is one where the shipper is an individual (e.g., the individual delivers the food to a post office or common carrier for delivery to self, family member, or friend for non-business purposes, i.e., not for sale, resale, barter, business use, or commercial use.)

Note: The shipper and the carrier are different entities. The carrier is the entity that transports the food into the U.S., and the carrier is likely to be a commercial entity even when the shipper is an individual.

Examples of shipments that may be covered by this non-commercial category are:

- Food purchased by a traveler and mailed or shipped to the traveler's U.S. address by the traveler, not the commercial establishment; and
- Gifts purchased at a commercial establishment and shipped by the purchaser, not the commercial establishment.

The food for non-commercial purposes may arrive by international mail or any other mode of transportation, but must be shipped by one individual to another individual (self, family member, or friend) to be considered for non-commercial purposes.

While a "person" sometimes can be an individual, partnership, corporation, or association, (see 21 U.S.C. 321(e)), by "individual" we mean a sole human being, not a partnership, corporation, or association.

**Examples:**

- An individual purchases food at Store A and sends that food to another individual by mail: the individual is the shipper and the carrier is the mail service. If the individual uses an express courier, the result is the same: the individual is the shipper and the express courier is the carrier. In this example, FDA and CBP generally would consider not taking any regulatory action if prior notice is not submitted.
- An individual purchases food at Store A and Store A ships the food. Therefore, Store A is the shipper. Since Store A is not an individual, this food shipment is not covered by the policy described above because the food was not imported or offered for import with a non-commercial shipper. In this example, FDA and CBP generally would take regulatory action if no prior notice is submitted. The action FDA and CBP staff typically should consider taking is education/communication for minor or inadvertent prior notice violations.

*For additional information see [Compliance Policy Guide: Guidance for FDA and CBP Staff \(/food/guidance-documents-regulatory-information-topic/compliance-policy-guide-guidance-fda-and-cbp-staff-sec-110310-prior-notice-imported-food-under\)](/food/guidance-documents-regulatory-information-topic/compliance-policy-guide-guidance-fda-and-cbp-staff-sec-110310-prior-notice-imported-food-under).*

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