VINEGAR

5500 '03 AUG 27 A9:29

August 21, 2003

Bureau of Customs and Border Protection (CBP)
Office of Regulations and Rulings
Attention: Regulations Branch
1300 Pennsylvania Avenue, NW
Washington, DC 20229

RE: Required Advance Electronic Presentation of Cargo Information
Docket Number RIN 1515-AD33

The Vinegar Institute (VI) is an international trade association representing manufacturers and bottlers of vinegar and suppliers to this industry. VI submits the following comments on the Bureau of Customs and Border Protection's (CBP) proposed rule, Required Advance Electronic Presentation of Cargo Information, which was published in the July 23, 2003 *Federal Register* (68 FR 43573).

VI supports the Bureau of Customs and Border Protection's efforts to ensure the safety of products entering and exiting the U.S. However, we note the numerous differences in the CBP's proposed rule on import/export notification and the Food and Drug Administration's (FDA) proposed rule, Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, which was published in the February 3, 2003, *Federal Register* (68 FR 5428). We believe the CBP and FDA have a common goal to ensure the safety and security of product entering the U.S. CBP and FDA import notification requirements should be harmonized and electronic notification systems integrated to reduce duplication of information provided to both Agencies and to reduce regulatory and industry resources needed to implement these proposals. In addition, there must be a coordinated effort between regulatory agencies to prevent confusion and delays of imported shipments at the U.S. port of entry. Detailed comments follow.

Integrated Electronic Notification System

In May 2003, the FDA issued a News Release announcing FDA and CBP's collaboration to streamline the implementation of the prior notice requirements of the Bioterrorism Act by allowing food importers to provide required information on food imports to both Agencies using CBP's Automated Commercial System. It was noted that "in most circumstances" importers would be able to provide the required information to FDA using this integrated system. VI believes it is important for the FDA and CBP to utilize an integrated electronic system to prevent food importers from submitting duplicate information to more than one Agency.

Timing Requirements for Data Submission

VI notes the time frames for advance submission of electronic information outlined for each mode of transportation in the CBP proposed rule is not as restrictive as that outlined in FDA's proposed rule dealing with prior notice of imported shipments. The FDA requires that for all modes of transportation notification must be submitted by noon the day before the anticipated date of arrival. The proposed CBP time frame is based on the mode of transportation and appears to be more realistic. VI believes the time frames for prior notification should be harmonized and FDA requirements aligned with those of CBP.

02N-0278 C230

SUITE 500-G • 5775 PEACHTREE-DUNWOODY ROAD • ATLANTA, GEORGIA 30342 • (404) 252-3663 • FAX (404) 252-0774 • E-Mail: vi@assnhq.com

Persons Submitting the Data
There are also differences regarding those persons required to submit the electronic information. The FDA proposal requires that the purchaser, importer, or U.S. agent who resides or maintains a business in the U.S. must submit prior notice. Depending on the mode of transportation, CBP is proposing to allow the carrier, and in some instances, other parties to submit electronic information. VI believes there should be harmonization between the Agencies on those persons allowed to submit electronic notification.

Data Submitted to Agencies
Some of the electronic information to be submitted to the FDA and CBP are the same, but there are some differences in the required information. VI notes that information on the same imported food product would be required to be submitted to both Agencies by different parties using different electronic systems. VI questions how issues between both Agencies will be resolved if there is a discrepancy or one Agency refuses the shipment. VI emphasizes the need for coordinated efforts by both Agencies.

The CBP proposed rule indicates that vessels must submit cargo information at least 24 hours before lading the cargo in the foreign port, as also specified in the "24-hour rule" (67 FR 66319). The proposed rule indicates the manifest data must include the consignee or "to the order of" information. The proposed rule does not address if the manifest data can be changed or amended once the vessel leaves the foreign port. Currently, it is possible for companies that import product, to sell the product to another company while in transit to the U.S. on the high seas. By the time the product reaches the U.S., the consignee information originally submitted could have changed. The CBP proposed rule does not address if new information would need to be submitted each time the product is sold prior to U.S. arrival or if the electronic information can be amended prior to the shipment's arrival. VI believes these issues should be addressed.

We appreciate your consideration of these comments.

Sincerely,

Pamela A. Chumley

Pamela A. Chumley
President

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