



FedEx Regulatory Alerts & Updates

Regulatory Alert: Requirements for Shipments Imported to Fulfillment Centers in USA

June 21, 2018

Background Information

U.S. Customs and Border Protection (CBP) has directed its attention to the growing volume of low value shipment imports as well as the challenges that e-commerce presents for the U.S. economy. The number of Americans shopping online has grown from 22 percent to 79 percent since 2000, which has further increased with the de minimis value increase in March 2016 from \$200 to \$800USD.

CBP has issued internal guidance to local ports for increased enforcement measures. The primary violations noticed most frequently are:

1. Bulk shipments that are broken down (or "split") in order to have the goods fall below the \$800 de minimis and entered duty free to avoid compliance with U.S. federal agency clearance requirements
2. Articles that are clearly undervalued
3. Articles that constitute Intellectual Property Rights (IPR) violations; counterfeit goods
4. Articles that are misdeclared as one item; yet are a different item upon examination/inspection

What has changed?

Effective immediately, shipments destined to fulfillment centers which do not serve as the Importer of Record (IOR), and are transported via FedEx Express (FXE) will require the following documentation criteria for accurate and effective clearance:

- Clear and accurate description(s) of all article(s) being imported
- Correct value for all article(s) being imported. If the articles are being sold, the value indicated should be the price paid or payable.
- NEW – ALL shipments regardless of value require a fully completed and accurate commercial invoice - OR a pro forma invoice if the goods are not sold

NEW - Prior to shipping goods to the U.S. fulfillment center which does not serve as the IOR, the foreign shipper must arrange their own Customs bond. FedEx Trade Networks (FTN) is available to assist with the procurement of a bond. FTN is the broker for FXE. Express – brokerage

inclusive shipments. This bond is required of the foreign shipper or Importer of Record if either of the following shipping scenarios apply:

1. The total value of all the goods in the shipment is > \$800USD
2. The goods in the shipment are subject to U.S. partner government agency (PGA) inspection and clearance

The bond is required to provide a surety against the potential loss of duty and taxes, or penalties that could be assessed for specific types of transactions, in addition to the other obligations set forth under 19 CFR 113.62. One of these additional obligations is to redeliver merchandise to Customs custody upon demand by CBP.

Shipments arriving in the USA without a Power of Attorney (POA) and bond arrangement will be IMMEDIATELY returned back to the foreign shipper at the shippers expense. The usual “five (5) day waiting period” allowed for shipment resolution does NOT apply in this situation.

Shipments impacted by CBP enforcement activities will be subject to immediate return to shipper (RTS) pending CBP authorization to do so. The usual “five (5) day waiting period” allowed for shipment resolution does NOT apply in this situation.

Q & A

How do I know if my shipment is destined to a “fulfillment center” that does not serve as IOR for clearance in the USA?

Please check with the U.S. fulfillment center on their guidelines for importing and serving as the IOR. This will allow you to determine if you are impacted by this change.

What are PGA (partner government agencies); what is their function?

Partner Government Agencies are other U.S. federal agencies other than CBP that regulate and make clearance admissibility decisions on the import and export of commodities within their purview.

There are over forty (40) PGAs including the Food and Drug Administration (FDA), Fish and Wildlife Service (FWS), and the Environmental Protection Agency (EPA).

These agencies review import shipment criteria provided on the IAWB and the commercial invoice to make clearance decisions on those shipments. This is why an accurate description can be critical. An example:

- Description of good is “hair barrette with bird feathers” would require FWS inspection for the bird feathers
- Description of good is “hair barrette with synthetic man made feathers” is basic clearance, FWS not required

How does a company request assistance from FTN to arrange a Customs Bond?

FXE and FTN have collaborated on a process for U.S. based import companies that might benefit from having their own bond with FTN. Follow the below steps for assistance from FTN to apply for a bond.

1. Contact FTN at Ftn_bond@ftn.fedex.com to obtain a POA form
2. Submit the POA to FTN to prepare and process the bond request

3. Agree to bond fee – minimum \$60 for a single transaction bond (STB) or \$500 annually for a continuous bond (CB)
4. Obtain the approved bond through the FTN Bond team.

Review the reference section below for the Regulatory Alert issued in December 2017 that addresses the bond issue in more detail.

Who at FedEx can I send any further questions to prior to shipping my merchandise?

Contact the FTN Bond team for questions about a power of attorney and assistance with acquiring a Customs Bond. Send email to: Ftn_bond@ftn.fedex.com

General regulatory questions on U.S. import or export issues prior to shipping can be directed to the Regulatory Consulting Group (or RCG). Send email to rcg@fedex.com

Date of Implementation: Immediate

References:

19 CFR 113 Customs Bonds:

<https://www.gpo.gov/fdsys/pkg/CFR-2012-title19-vol1/xml/CFR-2012-title19-vol1-part113.xml>

CBP De Minimis Value Exemption Chart

<https://www.cbp.gov/sites/default/files/assets/documents/2016-May/TFTEA-Increase%20in%20the%20De%20Minimis%20Value%20Exemption.pdf>

19 CFR 152 – Valuation of Merchandise

<https://www.ecfr.gov/cgi-bin/text-idx?SID=774278139da98a63367006cb264cae08&mc=true&node=sp19.2.152.e&rqn=div6>

Regulatory Alert: Setting Up a Customs Bond for FedEx Express Imports into the USA

(posted on December 21, 2017)

<https://smallbusiness.fedex.com/content/dam/SMB/international/pdf/Regulatory-Alerts/RegAlert%2018-031%20Setting%20Up%20a%20Customs%20Bond%20for%20FedEx%20Express%20Imports%20into%20the%20USA.pdf>