



FedEx Regulatory Alerts & Updates

RegAlert Update: Requirements for Shipments Imported to Fulfillment Centers in USA

February 26, 2019

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. In 2018, CBP published the *CBP Trade Strategy 2020* as well as the *CBP E-commerce Strategy*. Both of these publications highlight CBP's intention to facilitate legitimate e-commerce and enforce trade laws.

CBP has issued internal guidance to local ports for increased enforcement measures regarding low-value shipments. The 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 undervalued
3. Articles that constitute Intellectual Property Rights (IPR) violations (i.e., counterfeit goods)
4. Articles that are misdeclared as one item, yet upon examination are a different item

WHAT HAS CHANGED?

FedEx Express Process Change: Shipments impacted by CBP enforcement were previously returned immediately. Now, shipments impacted by CBP enforcement will be granted the standard 5-day clearance window.

Previously, two scenarios required customers to provide a Power of Attorney (POA) and customs bond for shipments destined to fulfillment centers:

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

The requirement for POA and customs bond no longer applies to these two scenarios. However, if a shipment is impacted by CBP enforcement, there are circumstances where a POA and customs bond would be required.

Note: Certain PGA clearance requirements could limit FedEx Trade Network's (FTN) ability to file customs entries, regardless of value. See the PGA clearance section below.

PARTNER GOVERNMENT AGENCY (PGA) CLEARANCE–NEW

If a fulfillment center shipment is subject to PGA clearance requirements and the PGA clearance necessitates a U.S. presence, additional restrictions apply. These restrictions exist whether or not a non-resident importer is established.

Typically, fulfillment centers will not act as the U.S. party required for PGA data entry requirements. Because of this, commodities subject to PGA clearance should not be shipped to fulfillment centers unless there is a U.S. sold-to party provided on the commercial invoice, and all PGA data requirements are met. Before applying for a POA and customs bond, it is important to review the PGA clearance requirements to ensure the POA and bond will be effective.

Below is a non-inclusive list of examples of commodities that are subject to PGA clearance requirements and require a U.S. sold-to party other than the fulfillment center to be on the shipping documentation in order for the goods to enter the commerce of the U.S.

Sunglasses	Eyeglasses	Bird feathers
Goods of reptilian leather	Laser levels	Toy laser products
Contact lenses	CD/DVD drives	Eyewear frames
Food	Pharmaceuticals	Biologics
Microwaves	Dietary supplements	Glow sticks
Essential oils	Reagents kit	Medical devices

Below are examples of fulfillment center shipments subject to PGA clearance requirements that can clear U.S. customs:

1. Food and Drug Administration (FDA) commodity that is shipped with a U.S. sold-to party listed on the commercial invoice, and all FDA data requirements are met.
2. Fish and Wildlife Services (FWS) commodity that is shipped with a U.S. sold-to party listed on the commercial invoice, and all FWS data and permit requirements are met.

Q&A

Q1: How would a customer arrange a bond with FedEx Trade Networks?

A1: Follow the below steps to apply for a customs bond with FTN.

1. Contact the Bond Department at ftn_bond@ftn.fedex.com to obtain a POA form and a bond application.
2. Submit the completed POA and bond application to the Bond Department to prepare and process the bond.
3. Agree to bond fee—minimum \$60 for a single transaction bond (STB) or \$550 for a continuous bond (CB), which can be used for multiple shipments.
4. Obtain the approved bond through the Bond Department.

Refer to RegAlert 18-031 in the Resources section for more details and information related to setting up a customs bond for imports into the USA.

Q2: How do I know if my shipment is destined to a “fulfillment center” that does not serve as Importer of Record (IOR) for clearance in the USA?

A2: 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.

Q3: I am unsure if my commodity is subject to PGA clearance requirements. What should I do?

A3: It is better to confirm whether the commodity is subject to PGA clearance requirements prior to arranging for a customs bond or shipping. Such questions can be directed to local origin contacts who have received FTN training.

Q4: Which PGAs have exemptions?

A4: The FDA is the only PGA that provides specific exemptions to PGA clearance. Refer to RegAlert 18-005 for further information.

Q5: Will my shipment be returned immediately if any CBP enforcement activity occurs?

A5: No. FedEx does have a 5-day clearance window for shipment resolution. Should a shipment fail to clear customs within the 5-day window, it will be subject to being returned to origin or abandoned and destroyed in the U.S.

Date of Implementation: Immediate

Action Required by FedEx External Customers

Be aware of the process change as well as the restrictions of shipping PGA-regulated shipments to fulfillment centers.

References:

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>

19 CFR 113.62 – Basic Importation and Entry Bond Conditions

https://ecfr.io/Title-19/se19.1.113_162

CBP Trade Strategy 2020

<https://www.cbp.gov/sites/default/files/assets/documents/2018-Oct/Trade-Strategy-2020.pdf>

CBP E-commerce Strategy

https://www.cbp.gov/sites/default/files/assets/documents/2018-Mar/CBP-E-Commerce-Strategic-Plan_0.pdf

RegAlert 18-031 – Setting Up a Customs Bond for FedEx Express Imports into the USA

<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>

RegAlert 18-005 – FDA Clearance of De Minimis Value Shipments into USA

<https://smallbusiness.fedex.com/content/dam/SMB/international/pdf/Regulatory-Alerts/RegAlert%2018-005%20FDA%20Clearance%20of%20De%20Minimis%20Value%20Shipments%20into%20USA.pdf>

RegAlert 19-007 – Requirements for Shipments Imported to Fulfillment Centers in USA

<https://smallbusiness.fedex.com/content/dam/SMB/international/pdf/Regulatory-Alerts/RegAlert%2019-007%20Requirements%20for%20Shipments%20Imported%20to%20Fulfillment%20Centers%20in%20USA.pdf>