

To whom it concerns

Grundarfjörður 4.11 2022

Re: Petition to FSIS to allow internet purchases on the web site TopIceland.com by households in the USA to be defined as a purchase for „Personal use only „ under Regulation 9 CFR 327.16

Background:

TopIceland.com is a small web shop (e-commerce), operated by the company Klakkur ehf, Id-number 560322-0380 and located in Grundarfjörður, Iceland. TopIceland was founded and started its operation in the year 2017. The main goal was to serve Icelanders outside of Iceland with some of their favourite foods from home. One of our main markets was the United States because of regulation 9 CFR 327.16, which states:

"Any product in a quantity of 50 pounds or less which was purchased by the importer outside the United States for his/her own consumption, is eligible to be imported into the United States from any country without compliance with the provisions in other sections of this part but subject to applicable requirements under other laws, including the regulations in [part 94 of this title](#). However, Program employees may inspect any product imported under this section to determine whether it is within the class eligible to be imported under this paragraph."

TopIceland has been supplying customers in the United States with Icelandic local food for own consumption since its founding in 2017. US households with a connection to Iceland have also welcomed this service. These households mainly constitute US citizens who have lived in Iceland (families in the army base in Keflavik, diplomats and those who have had their work and education in Iceland) and have established a connection with country. They want to experience the food again and allow their children and grandchildren to experience the food from Iceland.

TopIceland has been offering its service now since 2017 without any issues or comments from US authorities until we received a note from USDA on the August 5th 2022 regarding a USDA seizure of shipments (see e-mail page 4). In short, after over five (5) years of importing to the United States without any problems, suddenly our most popular item (Icelandic hot dogs) was prohibited from being imported to the USA. There was no warning, no adaption time.

The explanation given by the USDA was that this import is now defined as a commercial import because it is purchased outside of the USA via internet and therefore the regulation 9 CFR 327.16 is not valid.

However, the FDA defines personal imports and imports for personal as follows:

What is personal importation? (Definition of personal import according to FDA)

A personal importation is a product not for further sale or distribution into U.S. commerce. These products may be carried in baggage or shipped by courier or international mail.

<https://www.fda.gov/industry/import-basics/personal-importation#regulated>

According to this definition, the FDA does not distinguish between mode of delivery when defining products for own consumption. As such, our service should continue to be covered by Regulation 9 CFR 327.16.

TopIceland would thus kindly petitions that our imports, which fall under the definition of being for personal import only, would be covered under Regulation 9 CFR 327.16.

In summary:

- All imports from TopIceland to the USA is for personal use only. We only ship directly to households for own consumption.
- According to the FDA definition of personal imports, these products can be delivered via passengers **or shipped by courier or international mail.**
- No comments or actions have been raised by US authorities for five (5) years against these imports. We have been operating all this time in good faith, and it is quite unfair to start using these unclear regulations against our small company without any warnings or chance to discuss or change the outcome.
- Our customers are Icelandic or USA households with a connection to Iceland, including soldiers that worked in the army base in Iceland. This is important for them as it is for us.
- Our customers purchase items well within the of the regulation. Our biggest customer is buying around 25 pounds over the whole year.
- Iceland is not on any list of FSIS countries with animal illnesses. On the contrary, Iceland is known to be animal illness free with high quality and healthy food products.

TopIceland is very small family run company, operated in a small town (Grundarfjörður) outside of Reykjavík. This business creates 1.5 jobs and is very important to the local community. Without granting this petition and allowing this import into the US market chances are high that our company will not survive.

In case our petition cannot be granted, we would ask for a fair adjustment time of two years while we are building up other markets and products.

With hope for a positive answer

Grundarfirði 04.11 2022

On behalf of TopIceland ehf

Heiðdís Björk Jónsdóttir

Heiðdís Björk Jónsdóttir CEO

Jóhann Jón Ísleifsson

Jóhann Jón Ísleifsson Member of the board

SEIZED items consisted of:

Hot dogs lacking proper documentation

PORK Product

Seized items were PROHIBITED under USDA Regulation:

*9 CFR 94 - IMPORTATION OF MEAT, MILK PRODUCTS, SWINE, MEAT AND EGGS OF
POULTRY, ORGANS, GLANDS, AND REGULATED GARBAGE*

Import Permits, VS Health Certificates may be required pending on content

<https://www.fsis.usda.gov/inspection/import-export/import-guidance>

*Please advise payer account holders ---- It is required that the shipper/receiver
communicate their country requirements prior to sending the shipment so both countries can
be satisfied and the shipment doesn't get held up for regulatory reasons.*

<https://www.fsis.usda.gov/inspection/import-export/import-guidance>

[https://www.fsis.usda.gov/inspection/import-export/import-export-
library?keywords=&sort_by=title&sort_order=ASC&page=2](https://www.fsis.usda.gov/inspection/import-export/import-export-library?keywords=&sort_by=title&sort_order=ASC&page=2)

Toplceland submits this petition on the basis it is unclear and difficult to operate under.