



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 101, 128, 143, 145

[USCBP-2025-0002]

RIN 1685-AA01 (Formerly RIN 1515-AE84)

Entry of Low-Value Shipments

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes amendments to the U.S. Customs and Border Protection (CBP) regulations pertaining to the entry of certain low-value shipments not exceeding \$800 that are eligible for an administrative exemption from duty and tax. Specifically, CBP proposes to create a new process for entering low-value shipments, allowing CBP to target high-risk shipments more effectively, including those containing synthetic opioids such as illicit fentanyl. This document also proposes to revise the current process for entering low-value shipments to require additional data elements that would assist CBP in verifying eligibility for duty- and tax-free entry of low-value shipments and bona-fide gifts.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Please submit comments, identified by docket number, by the following method:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2025-0002.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to

<https://www.regulations.gov>, including any personal information provided. Comments must be submitted in English, or an English translation must be provided.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>. In accordance with 5 U.S.C. 553(b)(4), a summary of this rulemaking may also be found at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Christopher Mabelitini, Director, Intellectual Property Rights & E-Commerce Division, Office of Trade, U.S. Customs and Border Protection, 202-325-6915, ecommerce@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

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I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this notice of proposed rulemaking (NPRM). U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP will reference a specific portion of the NPRM, explain the reason for any recommended change, and include data, information, argument, or authority that supports such recommended change. CBP is also specifically seeking comments regarding the “product identifier” and “security screening report number” data elements discussed in section VI.D. In addition, CBP requests comment on the Harmonized Tariff Schedule of the United States (HTSUS) waiver process discussed in section VI.D and its potential for lowering the costs of the rule.

II. Background and Purpose

Section 321(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)), as amended by the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), section 901, Public Law 114-125, 130 Stat. 122, authorizes administrative exemptions from duty and tax for three categories of articles. These categories include: bona-fide gifts valued at \$100 or less (\$200, if the gift is from certain island possessions) sent from persons in foreign countries to persons in the United States; certain personal or household articles valued at \$200 or less accompanying persons arriving in the United States; and other articles when the value of the article is \$800 or less.¹

¹ 19 U.S.C. 1321(a)(2).

These exemptions are subject to the condition that the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from duty cannot exceed the authorized amounts. Also, these exemptions are not to be granted if merchandise covered by a single order or contract is forwarded in separate lots to obtain the benefit of duty- and tax-free entry.

This proposed rulemaking primarily concerns shipments covered by the administrative exemption in 19 U.S.C. 1321(a)(2)(C), *i.e.*, shipments of merchandise (other than bona-fide gifts and certain personal and household goods accompanying travelers arriving from abroad) imported by one person on one day and having an aggregate fair retail value in the country of shipment of not more than \$800. For simplicity, all references to “the administrative exemption” in this document will be to the administrative exemption found in 19 U.S.C. 1321(a)(2)(C). References made to the other administrative exemptions in 19 U.S.C. 1321(a)(2) will be specified as appropriate. In addition, this document refers to shipments not exceeding \$800 as “low-value shipments.”² Low-value shipments that qualify for the administrative exemption in 19 U.S.C. 1321(a)(2)(C) are referred to as “qualifying low-value shipments.” The administrative exemption is implemented in part 10 of title 19 of the Code of Federal Regulations (19 CFR part 10) at 19 CFR 10.151 and 10.153, and is also referenced in 19 CFR parts 128, 143, and 145.

The Customs Administrative Act of 1938 amended the Tariff Act of 1930 by adding section 321 and establishing the administrative exemption at \$1 in order to limit the “expense and inconvenience” of collecting duty when “disproportionate to the amount of such duty.”³ The value of these shipments was deemed to be so minimal that they were not subject to the same formal customs entry procedures and extensive data requirements as higher-value

² These shipments are also commonly referred to as “*de minimis*” shipments.

³ Customs Administrative Act of 1938, Pub. L. 75-721, 52 Stat. 1077, 1081 (1938).

shipments entering the United States. Congress has since raised the value of the administrative exemption to \$5 in 1978, \$200 in 1993, and most recently, to \$800 in 2016.⁴

The framework for the current version of the regulations pertaining to the administrative exemption was promulgated through a final rule in 1995, which, among other things, amended the customs regulations to implement the legislative increase of the exemption to \$200, specify the special informal entry procedures applicable to qualifying low-value shipments, set forth the parties qualified to make entry, and define the word “shipment.”⁵

In 2016, section 901(d) of TFTEA amended 19 U.S.C. 1321(a)(2)(C) by increasing the daily value limit for the administrative exemption from \$200 to \$800.⁶ CBP published an interim final rule amending the regulations to implement the new statutory amount and to specify certain goods excluded from the administrative exemption.⁷ Otherwise, CBP has not made any significant changes to the regulatory requirements by which such shipments are entered since 1995. In the nearly three decades since, however, there have been significant changes in the trade environment and supply chains, substantial increases in the volume of shipments, and advancements to CBP’s capabilities that necessitate the modernization of these regulations to better serve both CBP and the trade community.

Firstly, e-commerce is a growing segment of the U.S. economy and has been increasing significantly for the past several years.⁸ Consumer habits are changing as the internet empowers individuals to make purchases online. These advances in economic activity have led to increasing volumes of imports of low-value shipments, creating inspection challenges for CBP.

⁴ Customs Procedural Reform and Simplification Act of 1978, Pub. L. 95-410, § 205(b)(3), 92 Stat. 888, 900 (1978) (raising the value to \$5); North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2209 (1993) (raising the value to \$200 and also removing the specific authorization to the Secretary of the Treasury to diminish the dollar amount of the administrative exemption); Trade Facilitation and Trade Enforcement Act of 2015, Pub. L. 114-125, 130 Stat. 122 (2016) (raising the value to \$800).

⁵ 60 FR 18983 (Apr. 14, 1995).

⁶ Section 901 did not change the administrative exemptions for bona-fide gifts and personal or household articles accompanying travelers under 19 U.S.C. 1321(a)(2)(A) and (B), respectively.

⁷ 81 FR 58831 (Aug. 26, 2016). In the interim final rule, CBP solicited comments regarding the collection of data on behalf of partner government agencies for shipments valued at \$800 or less. CBP received eight public comments and intends to respond to the comments at the final rule stage of this rulemaking.

⁸ Although the administrative exemption is not limited to only e-commerce shipments, the reality is that e-commerce shipments comprise a significant portion of low-value shipments.

Low-value e-commerce shipments pose the same health, safety, and economic security risks as higher-value shipments. Transnational criminal organizations and other bad actors perceive low-value shipments as less likely to be interdicted because these types of shipments are not subject to the more extensive formal entry procedures. This has resulted in attempts to enter illicit goods, such as illicit fentanyl, into the country through these types of shipments. As noted below, the information requirements for low-value shipments are less rigorous than those required for other entry types, and often do not provide sufficient detail for CBP to accurately identify the merchandise in the shipment and the parties involved in its sale and purchase. Furthermore, novel and complex e-commerce business models have complicated and added to the traditional array of parties involved in the import transaction. New or infrequent importers often possess less familiarity with U.S. customs laws and regulations, which can lead to the attempted importation of non-compliant goods. This rulemaking proposes data requirements that are tailored to capture the key parties in these modern trade transactions (*e.g.*, the seller, purchaser, final deliver-to party, and marketplace), thus strengthening CBP's enforcement posture.

Secondly, the volume of low-value shipments has increased dramatically in recent years. The boom in e-commerce, coupled with the statutory increase in the daily value limit for the administrative exemption from \$200 to \$800 in 2016, greatly increased the number of shipments qualifying for the exemption, resulted in new types of products becoming eligible for the exemption, and revived the trade community's interest in the exemption. This boom in e-commerce resulted from several factors, including the development of the Automated Commercial Environment (ACE) Entry Type 86 Test, the COVID-19 pandemic, and new e-commerce business models structured around low-value shipments. In fiscal year (FY) 2015, prior to the passage of TFTEA, approximately 139 million shipments valued at \$200 or less were imported into the United States. In FY 2017, after the TFTEA increase to \$800 went into effect, low-value shipments numbered nearly 325 million. By the end of FY 2022, that number more

than doubled to 685 million. Then in FY 2023, CBP cleared more than one billion low-value shipments.⁹ Currently, approximately 4 million shipments are released each day free of duty and tax pursuant to the administrative exemption. In fact, CBP estimates that over 90 percent of the number of shipments entering the United States are low-value shipments valued at \$800 or less.¹⁰ The information requirements for these shipments are less rigorous than those required for other entry types, *e.g.*, formal entries, and no longer provide sufficient detail for CBP to accurately identify the merchandise in the shipment and the parties involved in its sale and purchase. This overwhelming volume of low-value shipments and lack of actionable data collected pursuant to the current regulations inhibits CBP's ability to identify and interdict high-risk shipments that may contain illegal drugs such as illicit fentanyl, merchandise that poses a risk to public safety, counterfeit or pirated goods, or other contraband. The new enhanced entry process for low-value shipments proposed in this rulemaking would provide CBP with the necessary information regarding the contents of shipments to more accurately segment risk and determine eligibility for the administrative exemption in advance of a shipment's arrival in the United States. The receipt of advance electronic data would also reduce the burden for CBP officers who process these large volumes of shipments because better data would lead to more accurate targeting. With more accurate targeting, CBP resources will be better focused on accurately identifying and interdicting violative shipments. Today, the quality of targeting is often impeded by the lack of information.

Lastly, both CBP and the trade community's technological capabilities have greatly advanced since 1995, and this proposed rule would adapt the regulations to current capabilities. As explained below in section IV, in the past, CBP cleared low-value shipments exclusively through a time-consuming and burdensome manual process, and staff at the ports of entry

⁹ Commercial Customs Advisory Committee Holds Final Public Meeting of 2023, December 20, 2023, <https://www.cbp.gov/newsroom/national-media-release/commercial-customs-advisory-committee-holds-final-public-meeting> (last accessed Jan. 31, 2024).

¹⁰ E-mail correspondence with the Office of Trade on Feb. 2, 2024.

became unable to quickly and efficiently process the increasing volume of trade. Consequently, it was not unusual for clearance to take up to eight days. Over the last several years, CBP has collaborated with the trade community to obtain input regarding how to more accurately identify the nature, origin, and ultimate destination of low-value shipments. This effort served as the foundation for two pilot programs, the Section 321 Data Pilot and the Entry Type 86 Test, which were implemented in 2019 to test CBP's capabilities to collect, and the trade community's ability to provide, certain enhanced data through CBP-approved electronic systems.¹¹ The details of the pilot programs, along with the results, are described below in section V. The innovations from the two pilots are incorporated into this proposed rule.

As illustrated above, the existing regulations do not account for the complex supply chains surrounding e-commerce transactions, today's volume of trade, or recent technological advancements. Consequently, this environment is more vulnerable to various challenges, including, but not limited to, illicit substances like fentanyl and other narcotics, counterfeit or pirated goods, and goods potentially made with forced labor. CBP's enforcement efforts have brought to light violations of the right to make entry, mismanifesting of cargo, misclassification, misdelivery (*e.g.*, delivery of goods prior to release from CBP custody), undervaluation, and incorrectly executed powers of attorney. Of particular concern is the threat posed by illicit fentanyl, fentanyl analogues, as well as precursor and other chemicals used in illicit drug production that are smuggled into the United States by transnational criminal organizations. In FY 2023, CBP seized more than 27,000 pounds of fentanyl nationwide.¹² The drugs are mostly smuggled through ports of entry at the Southwest Border via privately owned and commercial vehicles and through pedestrian lanes, or smuggled into the United States through the mail or

¹¹ Section 321 Data Pilot, 84 FR 35405 (July 23, 2019); Test Concerning Entry of Section 321 Low-Valued Shipments Through Automated Commercial Environment (ACE), 84 FR 40079 (Aug. 13, 2019).

¹² CBP Releases November 2023 Monthly Update, December 22, 2023, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-november-2023-monthly-update> (last accessed Jan. 31, 2024).

through express consignment carriers.¹³ CBP uses a multi-faceted approach to prevent illegal drugs from entering the country, and one key facet is advance information and targeting. Advance electronic shipping information allows CBP to quickly identify, target, and deter the entry of dangerous illicit drugs in all operational environments. This rulemaking contributes to the effort to stop the flow of illegal drugs into the United States by expanding the collection of enhanced advance electronic data for low-value shipments.

To address the above challenges, this document will explain the statutory authority that authorizes CBP to regulate the entry of low-value shipments, describe the current regulatory landscape, and propose new regulations that establish a new electronic entry process and clarify the parameters of the administrative exemption.

III. Statutory Authority

All merchandise imported into the customs territory of the United States is subject to entry and clearance procedures. These procedures ensure the proper appraisal, valuation, and tariff classification of the merchandise for the purpose of collecting the lawful amount of duties owed, as well as compliance with all other laws and regulations administered and enforced by CBP. Different procedures are provided for the entry and clearance of merchandise depending upon the value of the merchandise. There are “formal entry” procedures established by 19 U.S.C. 1484 and 1485, which are generally applicable to shipments of merchandise valued in excess of \$2,500. Part 142 of title 19 of the CFR (19 CFR part 142) implements 19 U.S.C. 1484, as amended, and prescribes formal entry procedures. Formal entry generally involves the completion and filing of one or more CBP forms, or their electronic equivalent, as well as the filing of commercial documents pertaining to the transaction.

¹³ Joint Written Testimony of Diane J. Sabatino, Deputy Executive Assistant Commissioner, Office of Field Operations, and James Mandryck, Deputy Assistant Commissioner, Office of Intelligence, before the U.S. Senate Committee on Appropriations, “Combatting Transnational Criminal Organizations and Related Trafficking” (May 3, 2023), <https://www.cbp.gov/about/congressional-resources/testimony> (last accessed Sept. 1, 2023).

Exempt from the requirements of 19 U.S.C. 1484 and 1485 are entries made under 19 U.S.C. 1498, which, for the most part, are limited to shipments of merchandise valued at \$2,500 or less (referred to as “informal entries”). Specifically, 19 U.S.C. 1498 authorizes the Secretary of the Treasury to “prescribe rules and regulations for the declaration and entry of merchandise when the aggregate value of the shipment does not exceed an amount specified . . . by regulation, but not more than \$2,500.” Informal entry regulations are found at 19 CFR part 143, subpart C. While informal entries are “excepted” from formal entry requirements, the Secretary may include any formal entry requirement in the rules and regulations governing informal entry.¹⁴ The statutory framework of 19 U.S.C. 1498 authorizes, in effect, a less formal entry process than under 19 U.S.C. 1484. As a result, informal entry procedures are less burdensome and complex than the formal entry procedures. These simplified procedures reduce the overall administrative burden on informal entry filers.

Shipments that are eligible for the administrative exemptions at 19 U.S.C. 1321(a)(2) are a subset of the informal entries covered by 19 U.S.C. 1498, which authorizes the Secretary to promulgate such special rules and regulations as the Secretary determines are necessary and appropriate for the declaration and entry of shipments valued at \$2,500 or less. Under 19 U.S.C. 1321, the Secretary is authorized to promulgate regulations to admit certain low-value articles duty- and tax-free in order to avoid expense and inconvenience to the Government that is disproportionate to the amount of revenue that would otherwise be collected. As noted above, regulations for the entry of low-value shipments, which are authorized under 19 U.S.C. 1498 may, but are not required to, include any of the rules that are otherwise applicable for formal entry under 19 U.S.C. 1484 and 1485.

Lastly, the Secretary is authorized by 19 U.S.C. 1321(b) to prescribe exceptions to an administrative exemption, if consistent with the purposes of the exemption or if “necessary for any reason to protect the revenue or to prevent unlawful importations.”

¹⁴ 19 U.S.C. 1498(b).

IV. Current Regulatory Procedures for Entry of Qualifying Low-Value Shipments

The regulations pertaining to the exemptions in 19 U.S.C. 1321(a)(2) are found throughout various parts of title 19 of the CFR. The administrative exemption at 19 U.S.C. 1321(a)(2)(C) is implemented at 19 CFR 10.151, which explains that qualifying merchandise not exceeding \$800 and meeting the conditions of 19 CFR 10.153 will be admitted free of duty and tax. The exemption for bona-fide gifts is implemented at 19 CFR 10.152. For low-value shipments accompanying a person, the merchandise comes in under an oral declaration pursuant to 19 CFR part 148.¹⁵ Shipments imported by mail are covered by 19 CFR part 145, and shipments imported by express consignment operators and carriers are covered by 19 CFR part 128. Lastly, informal entry procedures for qualifying low-value shipments are found in 19 CFR part 143, subpart C.

A. Release from Manifest Process

With certain exceptions, low-value shipments qualifying for the administrative exemption may be entered by presenting the bill of lading or a manifest listing each bill of lading.¹⁶ This type of informal entry is termed the “release from manifest process.” Generally, such shipments are released from CBP custody based on the information provided on the manifest or bill of lading. Qualifying low-value shipments may be entered, using reasonable care, by the owner, purchaser, or consignee of the shipment, or, when appropriately designated by one of these persons, a customs broker licensed under 19 U.S.C. 1641.¹⁷ The information required for release from manifest may be provided by consignees, such as carriers and express consignment operators. The following information must be provided as part of the release from manifest process: the country of origin of the merchandise; shipper name, address and country; ultimate consignee name and address; specific description of the merchandise; quantity; shipping weight;

¹⁵ The procedures for personal or oral declarations are set forth in 19 CFR 148.12, 148.13, and 148.62, and are not affected by this proposed rule.

¹⁶ 19 CFR 143.23(j). This same process is also used for entry of bona-fide gifts meeting the requirements of 19 CFR 10.152 and 10.153.

¹⁷ 19 CFR 143.26(b).

and value.¹⁸ No Harmonized Tariff Schedule of the United States (HTSUS) subheading is required on a manifest, and no entry summary is required, for low-value shipments.¹⁹

Among other things, 19 CFR 10.153 sets forth the conditions to be applied by a CBP officer in determining whether an article or parcel shall be exempted from duty and tax under 19 CFR 10.151 as a qualifying low-value shipment. In particular, 19 CFR 10.153 provides that consolidated shipments addressed to one consignee shall be treated as one importation; alcoholic beverages and cigars (including cheroots and cigarillos) and cigarettes containing tobacco, cigarette tubes, cigarette papers, smoking tobacco (including water pipe tobacco, pipe tobacco, and roll-your-own tobacco), snuff, or chewing tobacco are not exempt; any merchandise of a class or kind provided for in any absolute or tariff-rate quota, whether the quota is open or closed, is not exempt; and, there is no exemption from any tax imposed under the Internal Revenue Code that is collected by other agencies on imported goods. In addition, any merchandise subject to antidumping and countervailing duties is not exempt.²⁰

In addition to the regulations described above, which generally apply to all low-value shipments, CBP has established regulations for express consignment operators and carriers (ECOs) in 19 CFR part 128.²¹ The procedure for entry of qualifying low-value shipments imported by ECOs is set forth in 19 CFR 128.21 and 128.24(e). CBP requires that ECOs provide the manifest information listed in 19 CFR 128.21 in advance of arrival of all cargo (*i.e.*, the advance manifest). The information required on the advance manifest for qualifying low-value shipments is identical to the information required for the release from manifest process under 19

¹⁸ 19 CFR 128.21(a); 19 CFR 143.23(k).

¹⁹ 19 CFR 143.23(k); 19 CFR 128.24(e).

²⁰ See 19 U.S.C. 1671h; 19 U.S.C. 1673g (requiring CBP to collect antidumping and countervailing duty deposits for “*all* entries, or withdrawals from warehouse, for consumption of merchandise subject to [an antidumping or countervailing duty] order”) (emphasis added).

²¹ An “express consignment operator or carrier” is defined in 19 CFR 128.1(a) as “an entity operating in any mode or intermodally moving cargo by special express commercial service under closely integrated administrative control. Its services are offered to the public under advertised, reliable timely delivery on a door-to-door basis. An express consignment operator assumes liability to Customs for the articles in the same manner as if it is the sole carrier.”

CFR 143.23(k), but, pursuant to 19 CFR 128.24(e), such shipments must be segregated on the advance manifest when it is used as the entry document.²²

Pursuant to 19 CFR 145.31, qualifying low-value shipments sent through the mail are generally passed free of duty and tax without the preparation of an entry in accordance with 19 CFR 145.12. The information needed for entry and release is supplied in the documentation accompanying the mail package. Generally, this documentation consists of the customs declaration and invoice or bill of sale (or, in the case of merchandise not purchased or consigned for sale, a statement of the fair retail value in the country of shipment).²³

Regardless of the method or mode of transportation, CBP may require a formal entry for any merchandise if deemed necessary for import admissibility enforcement purposes, revenue protection, or the efficient conduct of customs business.²⁴

B. Partner Government Agency Requirements

A low-value shipment is not exempt from partner government agency (PGA) requirements.²⁵ Many PGAs do not have exemptions from their reporting requirements for low-value shipments and require strict accountability of imported goods for national security and health and safety reasons, and to identify specific shipments of potentially violative products for reporting or enforcement purposes. Low-value shipments may also require the payment of applicable PGA duties, fees, or excise taxes collected by other agencies. Shipments that have PGA data reporting requirements or require the payment of any duties, fees, or taxes must generally be entered using the appropriate informal or formal entry process to ensure that the PGA requirements are met. Low-value shipments subject to PGA requirements are currently ineligible for entry under the release from manifest process.

C. Challenges of the Release from Manifest Process

²² 19 CFR 128.21 and 128.24(e).

²³ 19 CFR 145.11.

²⁴ 19 CFR 143.22; *see also* 19 CFR 145.12(a)(1).

²⁵ In this rulemaking, CBP uses the phrase “partner government agencies” in the preamble interchangeably with the phrase “other government agencies,” which is found in title 19 of the CFR.

The release from manifest process is a slow and labor-intensive process. A CBP officer must review each entry and provide a determination regarding release. While this process may have been sufficient decades ago, the sheer volume of imports and the limited resources at the ports of entry make it untenable today.

Moreover, the data currently provided on the standard manifest is insufficient or too vague for CBP to effectively screen merchandise and provide admissibility decisions in a timely manner. The data often does not adequately identify the entity causing the shipment to cross the border, the final recipient, or the contents of the package. With the dramatic increase in shipments that only provide minimal data, CBP is left with fewer data points about a greater number of shipments. Many of these shipments are undervalued or incorrectly presented for release from manifest as non-PGA shipments, and thus do not qualify for the administrative exemption. More information about these shipments will help CBP to identify these shipments prior to release, thereby protecting consumers from purchasing goods that do not meet regulatory health and safety standards and protecting U.S. businesses from unfair competition against imported goods that would otherwise be charged duties or restricted from entry.

V. Section 321 Data Pilot and Entry Type 86 Test

To address the challenges described above, CBP launched two voluntary pilot programs pertaining to low-value shipments in 2019: the Section 321 Data Pilot and the Entry Type 86 Test. The Section 321 Data Pilot began with nine voluntary participants from the trade community to test the feasibility of CBP accepting advance data for shipments eligible for the administrative exemption.²⁶ Currently, CBP requires carriers and other regulated parties to transmit certain information relating to commercial cargo prior to the arrival of the cargo in the United States. However, in the e-commerce environment, traditionally regulated parties, such as

²⁶ 84 FR 35405 (July 23, 2019). The original pilot was expanded to include shipments arriving by ocean and international mail and was extended through August 2021. 84 FR 67279 (Dec. 9, 2019). It was subsequently extended through August 2023 (86 FR 48435 (Aug. 30, 2021)), and then again through August 2025 (88 FR 10140 (Feb. 16, 2023)).

carriers, are unlikely to possess all of the information relating to a shipment's supply chain that CBP needs to effectively identify high-risk shipments. The Section 321 Data Pilot tests the feasibility of obtaining this advance information from parties other than those required to submit it pursuant to the existing regulations, such as online marketplaces. The Section 321 Data Pilot also tests the collection of additional data that is generally not required under current regulations. Participants in the Section 321 Data Pilot agree to transmit certain data elements for each qualifying low-value shipment. Initial pilot participants included carriers, e-commerce marketplaces, a technology firm, and logistics providers. In 2023, CBP modified the Section 321 Data Pilot to allow participants to transmit optional data elements and to permit additional trade members to participate.²⁷ The purpose of the pilot is to improve CBP's ability to identify and target high-risk e-commerce shipments including narcotics, weapons, and products posing a danger to the public's health and safety.

The other pilot, the Entry Type 86 Test, authorized a new entry process for qualifying low-value shipments in the Automated Commercial Environment (ACE) through the development of a new informal entry type 86.²⁸ The test created a means for qualifying low-value shipments subject to PGA data requirements to benefit from the use of a section 321 entry process for the first time, allowing these shipments to claim duty- and tax-free treatment under the administrative exemption. Prior to the development of entry type 86, low-value shipments subject to PGA requirements were required to be entered using the more complex informal entry type 11 or formal entry.²⁹ The Entry Type 86 Test also expedites the clearance of compliant low-value shipments into the United States through the use of an electronic release in ACE.

²⁷ 88 FR 10140 (Feb. 16, 2023).

²⁸ 84 FR 40079 (Aug. 13, 2019).

²⁹ Merchandise imported by mail is excluded from the Entry Type 86 Test and may not be entered under entry type 86.

Under this test, an owner, purchaser, or customs broker appointed by an owner, purchaser, or consignee may file an entry type 86.³⁰ Ten data elements in the entry type 86 are required to be transmitted to CBP, including the 10-digit classification for the merchandise under the Harmonized Tariff Schedule of the United States (HTSUS). This information allows CBP to determine whether the shipment is subject to PGA data reporting requirements. Any PGA data reporting requirements must be satisfied by the transmission of the PGA Message Set and the filing of any supporting documentation via the Document Image System (DIS). The PGA Message Set enables the trade community to electronically submit all data required by the PGAs only once to CBP, eliminating the necessity for the submission and subsequent manual processing of paper documents, and makes the required data available to the relevant PGAs for import and transportation-related decision-making. The Entry Type 86 Test has allowed CBP to test electronic release in ACE for low-value shipments, including those with PGA data requirements. It has also allowed CBP to test operational procedures involved with the new entry type, including associated challenges with electronic release in ACE and necessary coordination with PGAs.

Both pilots have yielded positive benefits for CBP and the trade community. Specifically, under the Section 321 Data Pilot, CBP was able to test the feasibility of collecting new data elements that identify the entities responsible for the movement of low-value shipments, the precise contents of these shipments, and their final destination after arriving in the United States. Collection of this information allows CBP to conduct faster and more accurate risk assessments, and trade members providing this more detailed data may benefit from fewer CBP holds. Similarly, as a result of the Entry Type 86 Test, the trade community has experienced fewer holds and faster clearance, often same-day clearance, versus the previous wait

³⁰ For example, a party with a financial interest in the merchandise could constitute an owner or a purchaser that may file an entry type 86. Additionally, a broker properly appointed by the owner or the purchaser, or for example, by a third-party warehouse receiving the merchandise as a consignee, may file an entry type 86.

times of up to eight days. Trade members have also reported time and cost savings as detailed below in section VII.

If and when this proposed rule becomes a final rule, CBP will end the Entry Type 86 Test. CBP proposes to codify the Entry Type 86 Test's electronic entry process as part of the new enhanced entry process, with certain changes as discussed in the next section. The Section 321 Data Pilot, however, will continue with respect to those data elements and filers not covered by a final rule, for further evaluation of the pilot and the risks associated with low-value shipments. Changes to the Section 321 Data Pilot will be announced in a separate *Federal Register* notice.

VI. Discussion of Proposed Amendments

This rulemaking proposes amendments to provisions found in 19 CFR parts 10, 101, 128, 143, and 145. CBP generally intends this proposed rule's provisions to be severable from each other. CBP expects to provide additional detail on severability in the final rule once CBP has considered public comments and finalized the regulatory language. CBP proposes to combine the successful aspects of the Section 321 Data Pilot and Entry Type 86 Test to create a new, alternative³¹ process for entering low-value shipments (referred to as the “enhanced entry process”) that would, among other benefits, allow CBP to target high-risk shipments more effectively in advance of the shipment's arrival in the United States, including those shipments containing synthetic opioids such as illicit fentanyl. The new enhanced entry process incorporates a selection of the most useful data elements tested in the Section 321 Data Pilot and uses an electronic entry process similar to what was tested in the Entry Type 86 Test.³²

³¹ The enhanced entry process is required for goods subject to PGA data requirements seeking duty-free entry under the administrative exemption.

³² Some of the data elements collected under the enhanced entry process in this proposed rulemaking may be similar to advance data collected for cargo security purposes pursuant to regulations issued under the authority of 19 U.S.C. 1415, such as in the case of Air Cargo Advance Screening (ACAS) data. CBP notes that 19 U.S.C. 1415(a)(3)(F) prohibits data collected under that statute's implementing regulations from being used for commercial enforcement purposes, including for determining merchandise entry. This rulemaking is being proposed under the statutory authorities pertaining to the entry of merchandise as detailed in section III. Accordingly, the regulations issued under 19 U.S.C. 1415 will continue to apply without any modification by this proposed rulemaking.

The enhanced entry process would require the submission of advance data, within specified time frames, about the contents, origin, and destination of the shipments. Furthermore, the new process would allow CBP to maintain two key benefits of the Entry Type 86 Test, namely the expedited clearance of certain shipments and the availability of duty- and tax-free entry for qualifying low-value shipments, including those that are subject to PGA requirements.

This document also proposes to revise the current release from manifest process for entering low-value shipments (renamed as the “basic entry process”) to require additional data elements that would assist CBP in verifying eligibility for duty- and tax-free entry of low-value shipments and bona-fide gifts.

Additionally, this document proposes to define who is the “one person” to whom the \$800 exemption applies, explain eligibility requirements for the exemption, and clarify the definition of a “shipment,” among other things. Lastly, this document proposes to correct typographical errors and make minor amendments for clarity and stylistic purposes.

Part 10, among other things, establishes the administrative exemptions for low-value shipments and bona-fide gifts in the regulations and lists the conditions that must be met to qualify for the exemptions. Part 101 contains general definitions, which includes the definition of a “shipment.” Part 143, subpart C contains the informal entry procedures. Accordingly, the new enhanced entry process is set forth in proposed § 143.23(j) and (l). The parties who can make entry of low-value shipments and the applicable standards of care are found in § 143.26. Specific procedures for shipments imported by mail are found in part 145, and procedures for express consignment operators and carriers are found in part 128.

A. Part 10

Section 10.151 broadly sets forth the administrative exemption of 19 U.S.C. 1321(a)(2)(C) in the CBP regulations. Similarly, § 10.152 sets forth the administrative

exemption for bona-fide gifts under 19 U.S.C. 1321(a)(2)(A).³³ Section 10.153 sets forth the conditions to be applied by a CBP officer in determining whether an article or parcel shall be exempted from duty and tax under § 10.151 or 10.152. CBP is proposing several changes to these sections to clarify the parameters of these exemptions and more closely align the language in the regulations with the statutory text.

1. Shipments Exceeding \$800

There has been some confusion in the trade community regarding how the \$800 value limit is applied when multiple low-value shipments are imported by one person on the same day. To provide clarity, CBP proposes to amend § 10.151 to explain that when the aggregate fair retail value of shipments imported by one person on one day under § 10.151 exceeds \$800, then all such shipments imported on that day by that person become ineligible for duty- and tax-free entry under the administrative exemption. Such shipments would have to be entered under appropriate informal or formal entry procedures.

2. Party Eligible for Administrative Exemption and Party Authorized to Make Entry

In order to enforce the administrative exemption, CBP must ensure that the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty does not exceed the statutory limit of \$800. CBP proposes to amend § 10.151 to require that the “one person” eligible for the administrative exemption is the owner or purchaser of the merchandise imported on one day.

It is possible that the party who is eligible for the administrative exemption (*i.e.*, the owner or purchaser) is different from the party who is authorized to make entry under § 143.26(b). Accordingly, CBP proposes to include a cross-reference in § 10.151 to clarify that merchandise for which the administrative exemption is being claimed must be entered by a party authorized to make entry under § 143.26(b).

³³ The separate exemption for articles accompanying and for the personal/household use of travelers returning from abroad, under 19 U.S.C. 1321(a)(2)(B), is not implicated or changed by this rulemaking.

3. Single Orders Sent Separately to Circumvent Duties and Evidence of Fair Retail

Value

The statutory text of 19 U.S.C. 1321(a) prohibits goods from a single order or contract from being forwarded in separate lots to obtain the benefit of the administrative exemption. The current regulation differs from the statute in that the regulation requires that the single order must be sent separately for the “express purpose” of obtaining free entry or avoiding compliance with pertinent laws. CBP proposes to align this provision with the statute and remove the limiting language that requires an “express purpose” to be established.

CBP proposes removing the clause in § 10.151 that describes the documents (or oral declaration) used to evidence the fair retail value of a shipment. CBP believes that the informal entry procedures cited to in the last sentence of § 10.151 more comprehensively describe the required data and documents needed to file or support entry of the shipment.

4. Other Amendments to §§ 10.151 and 10.152

Currently, the regulations in §§ 10.151 and 10.152 state that the port director “shall” provide duty- and tax-free entry of shipments meeting the value limits in 19 U.S.C. 1321(a)(2)(A) and (C). The value limit, however, is not the only requirement that shipments must meet in order to obtain duty- and tax- free entry under these sections. All other applicable statutory and regulatory requirements must also be met. Furthermore, the administrative exemptions are a privilege and not an absolute right. CBP maintains the authority, pursuant to 19 CFR 143.22, to require a formal entry, and assess any attendant duties, taxes, and fees, as applicable, for any such shipment for import admissibility enforcement purposes, revenue protection, or the efficient conduct of customs business.³⁴ Therefore, CBP proposes to replace

³⁴ CBP may require a formal consumption or appraisal entry for any merchandise if deemed necessary for import admissibility enforcement purposes, revenue protection, or the efficient conduct of customs business. 19 CFR 143.22. Any such formally entered merchandise is not eligible for the administrative exemptions. *See* 19 CFR 10.151 and 10.152.

“shall” with “may,” reflecting that the exemptions are granted based on the port director’s discretion.

CBP also proposes amending §§ 10.151 and 10.152 to clarify that eligible merchandise *must* be entered under the specific informal entry procedures listed in each section in order to enter free of duty and tax. If another form of entry is used, such as informal type 11 entry or formal entry, then applicable duties and taxes will be assessed. For clarity, in §§ 10.151 and 10.152, CBP proposes replacing the more general cross-reference to subpart C of part 143 with the specific citations to the applicable informal entry procedures in § 143.23(j).

In § 10.152, CBP is proposing to remove the cross-references to §§ 148.12, 148.51, and 148.64 because they reference the process of entering gifts along with household or personal articles which accompany a person upon the person’s arrival from abroad, all of which may be entered pursuant to an oral declaration. Section 10.152 pertains to bona-fide gifts sent from persons in foreign countries to persons in the United States subject to the exemption under 19 U.S.C. 1321(a)(2)(A), which is distinct from the separate exemption under 19 U.S.C. 1321(a)(2)(B) for personal and household goods (including gifts) accompanying persons arriving in the United States. Accordingly, CBP proposes to remove those cross-references to avoid confusion.

Lastly, CBP proposes updating the undesignated center heading preceding § 10.151 to replace “\$200” with “\$800” to align with the current value limit in 19 U.S.C. 1321(a)(2)(C). In the same heading, CBP proposes hyphenating the phrase “bona fide” for consistency with the text in § 10.152.

5. Antidumping and Countervailing Duties

Section 10.153 sets forth, among other things, the guidance to be applied by a CBP officer in determining whether an article or parcel should be exempted from duty and tax under § 10.151. CBP proposes adding a new paragraph (i), which would clarify the existing requirement that merchandise subject to antidumping and countervailing duties (AD/CVD) is not eligible for

the administrative exemption. CBP has a ministerial role in administering and enforcing AD/CVD orders in accordance with instructions from the U.S. Department of Commerce (Commerce). Commerce’s instructions specifically direct CBP to assess AD/CVD on all entries for consumption of subject merchandise, without any exceptions. Further, the AD/CVD statutes specifically apply to “all entries, or withdrawals from warehouse, for consumption of merchandise subject to [an AD/CVD] order on or after the date of publication of such order,” without any mention of the administrative exemption or other exemption from the applicability of AD/CVD to all entries of subject merchandise.³⁵

In addition, new paragraph (i) also reinforces CBP’s authority to deny the administrative exemption for any other merchandise otherwise precluded by law from eligibility.

6. Other Amendments to § 10.153

CBP proposes updating the nomenclature in the introductory text of § 10.153 by changing “Customs” to “CBP.” Additionally, in paragraph (a) and the introductory text of paragraph (d), CBP proposes hyphenating the phrase “bona fide” for consistency with the text in § 10.152.

B. Part 101

CBP proposes amending the definition of “shipment” in § 101.1 to clarify that a single shipment corresponds to an individual bill of lading. An individual bill of lading is not a consolidation of several bills of lading and is not a master bill or other consolidated document. An individual bill of lading is a bill representing an individual shipment that has its own unique bill number and tracking number, where the shipment is assigned to a single ultimate consignee, and no lower bill unit exists. An individual bill of lading, also known as a “house bill,” is used in all modes of transportation. It may be referred to as an “individual air waybill” in the air environment or a “simple bill” in the ocean environment.

C. Part 128

³⁵ 19 U.S.C. 1671h (CVD); 19 U.S.C. 1673g (AD).

Part 128 sets forth requirements and procedures for the clearance of imported merchandise carried by ECOs, including couriers, under special procedures.

Current § 128.24 explains the informal entry procedures for express consignment shipments, including shipments meeting the requirements of § 10.151. As was done above in § 10.151, CBP proposes replacing the word “will” with “may” in the first sentence of the introductory text of § 128.24(e) to reflect that CBP has the discretion to require formal entry for any low-value shipment.³⁶ CBP proposes adding a cross-reference in the introductory text of § 128.24(e) to the entry procedures for low-value shipments in § 143.23(j). The procedures in § 143.23(j) require that an individual bill of lading must accompany each entry. Under the current regulations, an advance manifest listing each bill of lading may be used as the entry document, and shipments valued at \$800 or less must be segregated on the advance manifest. Accordingly, CBP is removing the requirement to segregate shipments valued at \$800 or less on an advance manifest because, although the advance manifest is still required, it is the individual bill of lading that serves as the entry document. As a result, there is no need to segregate shipments on the advance manifest. CBP is also removing paragraphs (e)(1) and (e)(2), because the data and documents required for entry are explained in § 143.23(j)-(l).

CBP proposes to add a new paragraph (f) to § 128.24 to specify the entry procedures to be used for entering bona-fide gifts. Bona-fide gifts may not be entered under the new enhanced entry process. CBP is also amending paragraph (d) to clarify that an entry summary is not required for qualifying low-value shipments and bona-fide gifts passing free of duty and tax pursuant to paragraphs (e) and (f), respectively.

Current § 128.21(a) lists the manifest information required in advance of the arrival of all express consignment cargo. CBP proposes to amend paragraph (a)(4)(ii) to explain that the HTSUS subheading number is not required for low-value shipments entered under the basic entry process in § 143.23(k), but it is required for shipments entered under the enhanced entry

³⁶ See 19 CFR 143.22.

process in § 143.23(l) (unless a waiver is obtained). Lastly, CBP proposes to replace the reference to “Customs” in § 128.21(b) with “CBP.”

D. Part 143

Under this proposed rulemaking, qualifying low-value shipments can be entered under two alternative processes to receive duty- and tax-free entry, either under the basic entry process or the enhanced entry process. This section explains the requirements of each process.

1. General Requirements for Shipments Not Over \$800 and Bona-fide Gifts

The general requirements for entry of qualifying low-value shipments and bona-fide gifts are set forth in the revisions proposed in § 143.23(j). Paragraph (j) states that in order to enter qualifying shipments, the party making entry must provide the individual bill of lading (house bill or equivalent), or other shipping document used to file or support entry, as a basic requirement. In addition, the requirements of either the basic entry process in paragraph (k) or the enhanced entry process in paragraph (l) must be met.

The proposed revisions to paragraphs (j)(1)-(3) explain when certain types of merchandise are limited to entry under either the basic or enhanced process in order to qualify for the administrative exemption. Proposed paragraph (j)(1) states that merchandise may be subject to other legal requirements, including the requirements of other Federal, State, or local agencies, as applicable. In the case of merchandise regulated by other Federal agencies, the merchandise may not be entered under the basic entry process under § 143.23(k), but may be entered under the enhanced entry process under § 143.23(l). However, any merchandise that is not exempt from the payment of any applicable PGA duties, fees, or taxes is not eligible for entry under either entry process. Any filing that is determined to owe any duties, fees, or taxes will be rejected by CBP and must be re-filed using the appropriate informal or formal entry process.

Proposed paragraph (j)(2) explains that mail importations may not be entered using the basic entry process in § 143.23(k), but may be entered using the enhanced entry process in §

143.23(l). Further information about mail importations is found in § 145.31. Lastly, proposed paragraph (j)(3) explains that bona-fide gifts under § 10.152 are not eligible to use the enhanced entry process and must use the basic entry process in § 143.23(k).

2. *Basic Entry Process*

CBP proposes to amend the current release from manifest process described in § 143.23(j) and (k). First, CBP proposes renaming the existing process in § 143.23(j) and (k) as the “basic entry process” to differentiate it from the proposed new “enhanced entry process.” The requirements for the basic entry process will be consolidated in § 143.23(k).

The proposed basic entry process maintains the general procedures of the existing release from manifest process, with slight modifications. As explained in paragraph (k), low-value shipments meeting the requirements in § 10.151 or bona-fide gifts meeting the requirements in § 10.152 may be entered under the basic entry process. Release under the proposed basic entry process will be obtained by providing an individual bill of lading (house bill or equivalent) and will require the filer to provide the data elements listed in paragraph (k). The entry data may either be transmitted electronically through a CBP-authorized electronic data interchange (EDI) system or be submitted in paper format.

There are some changes to the data elements from the current process. The following information must be provided under the existing process: the country of origin of the merchandise; shipper name, address and country; ultimate consignee name and address; specific description of the merchandise; quantity; shipping weight; and value.³⁷ In § 143.23(k)(3), CBP proposes to also require the name and address of the person claiming the administrative exemption under § 10.151 or 10.152, *i.e.*, the person who is being exempted from the payment of duty for the qualifying low-value shipment. For qualifying low-value shipments, this would be the name and address of the owner or purchaser as set forth in § 10.151. For bona-fide gifts, it

³⁷ 19 CFR 143.23(k).

would be the name and address of the person receiving the articles as set forth in § 10.152.³⁸

This is crucial information that CBP needs to enforce the cumulative statutory “one person on one day” monetary restriction.

Additionally, in proposed § 143.23(k)(8), CBP requires the name and address of the final deliver-to party, if distinct from the party eligible for the administrative exemption in paragraph (k)(3). This refers to the final party in the United States to whom the merchandise is to be delivered. The purpose of this data element is to enable CBP to know to whom and where the imported merchandise is destined to be delivered in the United States. To avoid duplication of data elements, CBP is proposing to remove the name and address of the ultimate consignee, currently required by § 143.23(k)(3).

CBP is also proposing amendments to several of the existing data elements. CBP proposes to clarify that the quantity requested is the “manifested quantity of the merchandise” and the weight is referring to the “shipment weight.” Lastly, to maintain consistency with the statutory language, CBP is specifying that the value required is the “fair retail value in the country of shipment” in U.S. dollars.³⁹

3. Enhanced Entry Process

Proposed § 143.23(l) sets forth the enhanced entry process. This process is limited to low-value shipments meeting the requirements of § 10.151. Accordingly, qualifying bona-fide gifts under § 10.152 must use the basic entry process for duty- and tax-free entry.

The enhanced entry process requires the electronic transmission of the individual bill of lading (house bill or equivalent) or other shipping document used to file or support entry. In addition, enhanced entry filers must transmit the data elements in paragraph (k) and paragraphs

³⁸ 19 CFR 10.152. The exemption may be granted if the conditions in § 10.153 are met and “the aggregate fair retail value in the country of shipment of such *articles received by one person* on one day does not exceed \$100 or, in the case of articles sent from a person in the Virgin Islands, Guam, and American Samoa, \$200.” (Emphasis added.)

³⁹ When duties or other charges or fees are assessed on an import, they are calculated using the appraised value of the imported good, pursuant to 19 U.S.C. 1401a, which is not based on the good’s retail value in the country of shipment. Alternatively, for the purposes of the administrative exception, the value to be evaluated to determine qualification for duty- and tax-free treatment is the fair retail value in the country of shipment.

(1)(1)-(2) to CBP. CBP acknowledges that it is possible that the required data elements do not all reside with one party. The entry, however, can only be filed by *one* of the parties eligible to file entry. Therefore, in such cases, the party filing the entry will need to gather the required data from others before filing.

The enhanced entry process requires data to be transmitted to CBP in advance of arrival of the shipment to allow for CBP to timely conduct targeting and offer expedited release. For consistency with other advance data requirements, CBP proposes to adopt, for the enhanced entry process, the same time frames as currently applicable for filing advance electronic data (AED) under regulations promulgated pursuant to section 343 of the Trade Act of 2002, 19 U.S.C. 1415 (the Trade Act regulations). Therefore, all the required information and documentation must be transmitted to CBP through a CBP-authorized EDI system on or before the deadline for receipt of advance cargo information. Mail shipments using the enhanced entry process are subject to a separate filing deadline, which can be found in § 145.31. For all other shipments, the required time frame to file an enhanced entry varies depending on the mode of transportation, and will be the same as provided for AED filings for each mode under the Trade Act regulations, which are as follows:

- For vessel cargo, the filing must be received by CBP 24 hours before the cargo is laden aboard the vessel at the foreign port. 19 CFR 4.7 and 4.7a.
- For air cargo, the filing must be received by CBP either: (1) no later than the time of the departure of the aircraft for the United States,⁴⁰ in the case of aircraft that depart for the United States from any foreign port or place in North America, including locations in Mexico, Central America, South America (from north of the Equator only), the Caribbean, and Bermuda; or (2) no later than four hours prior to the arrival of the aircraft

⁴⁰ The trigger time is no later than the time that wheels are up on the aircraft, and the aircraft is en route directly to the United States. 68 FR 68140; *see also*, 19 CFR 122.48a(b).

in the United States, in the case of aircraft that depart for the United States from any foreign area other than those specified in 19 CFR 122.48a(b)(1). 19 CFR 122.48a(b)(1).

- For rail cargo, the filing must be received by CBP no later than two hours prior to the cargo reaching the first port of arrival in the United States. 19 CFR 123.91.
- For truck cargo, the filing must be received by CBP no later than either 30 minutes or one hour prior to the carrier's reaching the first port of arrival in the United States, or such lesser time as authorized, based upon the CBP-approved system employed to present the information. 19 CFR 123.92.

If the required information has not been transmitted by the time frames specified, those shipments will not receive a release message upon arrival of the conveyance. Such shipments will be held for additional action, such as an exam or document review before a manual clearance may be given.

In order to account for the various types of merchandise that may be entered subject to the administrative exemption, the data elements required for the enhanced entry process are split into subparagraphs (1) and (2). Subparagraph (1) data must be transmitted for all shipments. The data in subparagraph (2) may not be applicable to all shipments, but if the data exists, it must be transmitted. CBP may request supporting documentation to conduct verification of any of the data elements.

Under proposed § 143.23(l)(1), the following data elements must be transmitted for all shipments:

(i) *Clearance tracing identification number (CTIN)*

The CTIN refers to the individual bill of lading number or other unique identification number used to associate the merchandise on the individual bill of lading with the eligible imported merchandise for which entry is sought.

(ii) *Country of shipment of the merchandise*

This refers to the country where the goods were located when the shipment was created for exportation to the United States. For example, a good originating in Country A is shipped to a storage facility in Country B and is then sold and prepared for exportation to the United States. It is then transshipped through Country C before arriving in the United States. In this scenario, the country of shipment is Country B.

(iii) 10-digit classification of the merchandise in Chapters 1-97 (and additionally in Chapters 98-99, if applicable) of the Harmonized Tariff Schedule of the United States (HTSUS)

The 10-digit HTSUS classification must be provided for all shipments unless the HTSUS waiver privilege has been obtained pursuant to paragraph (m) and asserted for the entry. Regardless of whether the waiver privilege is granted, merchandise subject to requirements of other government agencies will always require the HTSUS subheading number to be filed. The intent of collecting HTSUS data is primarily for CBP to verify what partner government agency requirements may apply to the merchandise.

Unless otherwise prohibited, a Chapter 98 or Chapter 99 commodity may also be entered under the enhanced entry process. In such cases, the Chapter 98 or Chapter 99 HTSUS classification must be provided in addition to the underlying Chapters 1-97 HTSUS classification for the merchandise.

(iv) Additional data elements

CBP is also requiring at least one of the data elements listed under paragraph (l)(1)(iv). These data elements include the internet address known as the uniform resource locator (URL) to the marketplace's product listing for the merchandise in the entry; product picture; product identifier; and/or a shipment x-ray or other security screening report number verifying completion of foreign security scanning of the shipment. These data elements would be used by CBP to verify the contents of the shipment for admissibility purposes.

CBP intends for the product identifier to be a commercial product identifier such as the part number, stock keeping unit (SKU), or product code. However, CBP is seeking the trade community's input regarding suggestions for acceptable product identifiers.

The security screening report number, applicable to ECOs, is also included as one of the four options. CBP seeks the trade community's input about its viability for being submitted as part of the enhanced entry process.

Next, proposed § 143.23(1)(2) lists additional information that must be transmitted for all shipments, if applicable. These data elements include:

(i) Seller name and address

The seller is the party that made, or offered or contracted to make, a sale of the merchandise. Seller information is critical to CBP's efforts to identify and interdict shipments of goods that infringe intellectual property rights or are of a substandard quality that renders them otherwise restricted from entry. These goods undercut the competitiveness of U.S. businesses and pose health and safety concerns.

(ii) Purchaser name and address

The purchaser is the last known party to whom the goods are sold, or the party to whom the goods are contracted to be sold, at the time of importation. Importation occurs when a vessel arrives within the limits of a port in the United States with intent then and there to unlade such merchandise.⁴¹ In the case of merchandise imported other than by vessel, importation occurs when the merchandise arrives within the customs territory of the United States.⁴²

Although this data element may seem to overlap with the data elements in § 143.23(k)(3) and (8), that would not always be the case. One of the main purposes of this proposed rule is to try to capture *all* the parties involved with complex e-commerce transactions. It is possible, for example, that Party A purchases a product on an online marketplace from Party B to be sent to

⁴¹ 19 CFR 101.1.

⁴² *Id.*

Party C's address in the United States. In this scenario, it is possible that the name of Party B could be provided in § 143.23(k)(3) as the owner, and the name of Party C is provided in § 143.23(k)(8) as the final deliver-to party in the United States. Without this separate data element requesting the name and address of the purchaser, CBP would not know the party who initiated this transaction (*i.e.*, Party A).

(iii) Any data or documents required by other government agencies

If the merchandise is subject to any PGA data reporting requirements, the filer must transmit the PGA Message Set and file any supporting documentation via the Document Image System (DIS).⁴³

(iv) Advertised retail product description

This refers to the exact product description as listed in the advertisement for sale. This must include a description that is more detailed than what is provided on the manifest. For example, products listed on online marketplaces include detailed descriptions of the merchandise, dimensions, weight, etc.

(v) Marketplace name and website or phone number

This refers to the party that provides an internet (*e.g.*, online, website, application ("app"), electronic mail) or telephonic (*e.g.*, telephone, television, or catalog) means of offering products for sale. The marketplace may be a seller or a third party offering products on behalf of a seller.

4. HTSUS Waiver Privilege

The proposed enhanced entry process requires the submission of a 10-digit HTSUS classification for determining whether the merchandise is subject to PGA data requirements. CBP understands that many companies have their own internal risk assessment processes, which include ways to determine whether imported merchandise is subject to PGA requirements.

⁴³ See the December 13, 2013 *Federal Register* notice (78 FR 75931) for a further discussion of the PGA Message Set and the October 15, 2015 *Federal Register* notice (80 FR 62082) for a further discussion of DIS.

Accordingly, the proposed regulations provide for parties to apply for a waiver of the reporting requirement for the 10-digit HTSUS classification if the filing party has documented internal controls that ensure certain compliance measures. This waiver is intended for filers with demonstrated capabilities and histories of segmenting out goods subject to PGA requirements. The waiver lifts the data requirement for 10-digit HTSUS classification as part of the enhanced entry only for goods that are not subject to PGA requirements. Waivers do not apply to goods that are subject to PGA requirements, for which the 10-digit HTSUS classification is always required under the enhanced entry process.

Proposed § 143.23(m) sets forth the application requirements for the HTSUS waiver privilege, actions CBP may take on the application, and the appeals process. Notwithstanding the availability of this privilege, a 10-digit HTSUS classification would still be required for imported merchandise subject to PGA requirements. The waiver may only be used to enter merchandise under the enhanced entry process without providing the 10-digit HTSUS classification, when the imported merchandise is not subject to PGA requirements.

A party eligible to make an enhanced entry may apply for the HTSUS waiver privilege by submitting an application containing the information in paragraph (m)(2) to the Director, Cargo Security and Controls Division, Office of Field Operations, at ecommerce@cbp.dhs.gov. The application process must include information demonstrating that the applicant does not import goods subject to PGA requirements or it must have in place documented internal controls used in the ordinary course of business to identify PGA goods with certainty. An applicant must demonstrate that the internal controls allow the applicant to properly classify merchandise under the HTSUS at the 10-digit classification, determine whether merchandise is subject to the requirements of other government agencies, and determine whether merchandise is otherwise precluded by law from eligibility for the administrative exemption under 19 U.S.C.

1321(a)(2)(C). Participation in the Customs Trade Partnership Against Terrorism (CTPAT)

program does not guarantee approval of an application, but may be considered along with other factors on a case-by-case basis.

The Office of Field Operations, in consultation with the Office of Trade, will make the determination to grant or deny the application on a case-by-case basis. CBP will respond to applications within 60 days of receipt. CBP will conduct periodic compliance reviews of privileges granted. CBP may revoke the privilege at any time if it determines that a company's internal controls fall below the standards set by CBP, as proposed in 19 CFR 143.23(m)(2)(ii). If a company does not agree to participate in a review, then the privilege will be revoked.

If an application is denied or the waiver is revoked, an appeal may be submitted by e-mail within 30 days of the date of denial or revocation to the Executive Director, Trade Policy and Programs, Office of Trade, CBP Headquarters, at ecommerce@cbp.dhs.gov. The denial of an application or the revocation of a waiver, does not preclude a party from reapplying for the privilege in the future. Reapplications must specify and address past denials and revocations of the privilege.

Once obtained, the waiver privilege must be asserted as part of the entry filing for a shipment. CBP will track whether the imported merchandise in a shipment is eligible for the privilege through a "flag" or certification checkbox in ACE.

5. Party Who May Make Entry and Standard of Care

Section 143.26 addresses the right to make entry and the standard of care for informal entries. Current § 143.26(b) addresses who has the right to make entry, and states that shipments valued at \$800 or less may be entered, using reasonable care, by the owner, purchaser, or consignee of the shipment or, when appropriately designated by one of these persons, a customs broker. These parties may continue to file entry under the basic entry process, and CBP proposes to add a clarifying cross-reference to § 143.23(k). Carriers often enter low-value shipments as nominal consignees under the release from manifest process. They will continue to be able to do so under the basic entry process in proposed § 143.23(k). This is not the case, however, under

the enhanced process in proposed § 143.23(l). CBP proposes to add new paragraph (c) to § 143.26 that establishes an exception for enhanced entries regarding the parties who may make entry and the standard of care required.

CBP proposes that an enhanced entry under § 143.23(l) may be entered using reasonable care, by the owner or purchaser of the shipment, an express consignment operator or carrier in possession of the shipment (see § 128.1(a)), or when appropriately designated by the owner, purchaser, or consignee of the shipment, a customs broker. The filing of a basic or an enhanced entry, like the filing of any entry, is considered “customs business” under 19 U.S.C. 1641.⁴⁴ CBP notes that customs brokers must be authorized to conduct customs business on behalf of another party through a valid power of attorney and must comply with all other statutory and regulatory requirements applicable to brokers.⁴⁵ This proposed rule does not preclude further amendments of the regulations at a later date to include other enhanced entry filers, including possibly the United States Postal Service. Any such expansion would be considered in a future rulemaking.

Unlike in the basic entry process, consignees are not permitted to file an enhanced entry without using a customs broker. However, ECOs are permitted to file an enhanced entry without using a customs broker, even though they are consignees, because they are better able to provide detailed information to CBP about the imported merchandise. ECOs, by regulation, are expected to exercise “a high degree of control over the shipments, particularly in regard to the reliability of information supplied for Customs purposes.”⁴⁶ Typically, it is the owner or purchaser (*i.e.*, a party with a direct nexus to the merchandise) who provides ECOs with information about the

⁴⁴ Pursuant to 19 U.S.C. 1641, “customs business” is defined as those activities involving transactions with CBP concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by CBP on merchandise by reason of its importation, or the refund, rebate, or drawback of those duties, taxes, or other charges. “Customs business” also includes the preparation of documents or forms in any format and the electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with CBP in furtherance of such activities, whether or not signed or filed by the preparer, or activities relating to such preparation, but does not include the mere electronic transmission of data received for transmission to CBP.

⁴⁵ See 19 CFR 141.46; *see, e.g.*, 19 U.S.C. 1641; 19 U.S.C. 1484; 19 CFR parts 111 and 141.

⁴⁶ 19 CFR 128.1(f).

shipment. This closely integrated administrative control over shipments from pick-up to delivery uniquely positions ECOs, as opposed to other consignees, to obtain and provide to CBP accurate information about the contents of the shipment and to determine if the merchandise is subject to PGA requirements.

ECOs transporting eligible shipments would qualify to file without using a customs broker under the enhanced entry process. Under 19 U.S.C. 1498, CBP has broad authority to promulgate special rules for the declaration and entry of merchandise subject to the 19 U.S.C. 1321(a)(2)(C) exemption, to include identifying specific parties in the implementing regulations who are permitted to make entry on their own behalf.

Section 143.26 also addresses the standard of care required for informal entries, including for entries of low-value shipments. Shipments entered under the basic process in proposed § 143.23(k) are covered by § 143.26(b) and the standard of care continues to be “reasonable care.”

For enhanced entries under proposed § 143.23(l), proposed § 143.26(c) states that the general standard of care is reasonable care, but sets forth more specific provisions for the data elements in § 143.23(l)(1)(iv)(A)-(D) and 143.23(l)(2)(iv)-(v). Specifically, these include the URL to the product listing, product picture, product identifier, shipment x-ray or other security screening report number, advertised product description, and marketplace information. CBP recognizes that these are non-traditional data elements and may not be easily verifiable by the party filing the entry if they are being passed onto the filer by third parties. Accordingly, when a party eligible to file the entry transmits the entry information specified above and receives any of that information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the transmitting party acquired such information, and whether and how the transmitting party is able to verify this information. When the transmitting party is not reasonably able to verify such information, CBP will permit the party to transmit the information on the basis of what the party reasonably believes to be true.

CBP proposes adding a cross-reference to the first sentence in paragraph (b) to recognize the more specific provisions in new paragraph (c).

E. Part 145

CBP proposes amending § 145.31 to allow for mail shipments to be entered through the enhanced entry process. Parties interested in using the postal service to ship merchandise using the enhanced entry process will have to ensure that all required information is transmitted to CBP using the procedure set forth in § 143.23(l).⁴⁷ A mail customs declaration and invoice will continue to be required in accordance with § 145.11. The customs declaration is the “other shipping document used to file or support entry” referenced in § 143.23(j) and (l). The data for mail shipments must be received by CBP no later than the date the merchandise departs from the country of posting. Mail shipments are not eligible to use the basic entry process because the current method of entering qualifying low-value mail shipments free of duty and tax will continue to remain available. Under the current method, the information needed for entry and release is supplied in the documentation accompanying the mail package. Generally, this documentation consists of the customs declaration and invoice or bill of sale (or, in the case of merchandise not purchased or consigned for sale, a statement of the fair retail value in the country of shipment).⁴⁸

Lastly, CBP proposes to replace the word “will” with “may” in the first sentence of § 145.31 and the word “shall” with “may” in the first sentence of § 145.32 to reflect that CBP has the discretion to require formal entry for any low-value shipment.⁴⁹

VII. Statutory and Regulatory Reviews

A. Executive Orders 12866, 13563, and 14094

⁴⁷ This rulemaking does not place any new requirements on the U.S. Postal Service to provide data to CBP and does not impose any new liabilities on it.

⁴⁸ 19 CFR 145.11.

⁴⁹ 19 CFR 143.22 and 145.12(a)(1).

Executive Orders 13563 (Improving Regulation and Regulatory Review) and 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory Review), direct agencies to assess the costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This rulemaking is a “significant regulatory action” under section 3(f)(1) of Executive Order 12866, as amended by Executive Order 14094, because the rulemaking would have an annual effect of \$200 million or more during at least one year of the analysis. A regulatory impact analysis, entitled *Entry of Low-Value Shipments (ELVS) Rulemaking*, has been included in the docket of this rulemaking (docket number [USCBP-2025-0002]). The following presents a summary of the aforementioned regulatory impact analysis.

1. Purpose of the Rule

Section 321(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)), as amended by the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), section 901, Public Law 114-125, 130 Stat. 122, authorizes administrative exemptions from duty and tax for three categories of articles. These categories include: bona-fide gifts valued at \$100 or less (\$200, if the gift is from certain island possessions) sent from persons in foreign countries to persons in the United States; certain personal or household articles valued at \$200 or less accompanying persons arriving in the United States; and other articles when the value of the article is \$800 or less.⁵⁰ These exemptions are subject to the condition that the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from duty cannot exceed the authorized amounts. Also, these exemptions are not to be granted if merchandise covered by

⁵⁰ 19 U.S.C. 1321(a)(2).

a single order or contract is forwarded in separate lots to obtain the benefit of duty- and tax-free entry.

This proposed rulemaking primarily concerns shipments covered by the administrative exemption in 19 U.S.C. 1321(a)(2)(C), *i.e.*, shipments of merchandise (other than bona-fide gifts and certain personal and household goods accompanying travelers arriving from abroad) imported by one person on one day having an aggregate fair retail value in the country of shipment of not more than \$800. For simplicity, all references to “the administrative exemption” in this document will be to the administrative exemption found in 19 U.S.C. 1321(a)(2)(C). References made to the other administrative exemptions in 19 U.S.C. 1321(a)(2) will be specified as appropriate. In addition, this document refers to shipments not exceeding \$800 as “low-value shipments.”⁵¹ Low-value shipments that qualify for the administrative exemption in 19 U.S.C. 1321(a)(2)(C) are referred to as “qualifying low-value shipments.” The administrative exemption is implemented in part 10 of title 19 of the Code of Federal Regulations (19 CFR part 10) at 19 CFR 10.151 and 10.153, and is also referenced in 19 CFR parts 128, 143, and 145.

Goods exceeding the *de minimis* limit (\$800) or not satisfying all other statutory and regulatory requirements are not eligible for the administrative exemption and may not use the entry procedures for qualifying low-value shipments. Such goods must be entered using the appropriate formal or informal entry procedure and may be subject to duties and tax as provided by law. Put simply, qualifying low-value shipments must be entered in limited quantities per recipient (so as not to exceed the value limit). Everyday examples of typical low-value shipments might include cosmetics, a sweater, or a phone charger purchased from an online retailer.

Over the past eight years, the number of low-value shipments entering the United States has increased dramatically, from approximately 139 million shipments in 2015 to over 1 billion

⁵¹ These shipments are also commonly referred to as “*de minimis*” shipments.

in 2023.⁵² This increase in shipment volume poses significant challenges for CBP, which must mitigate the risk of illicit items entering the country. Illicit items may include items that pose potential health, safety, and economic security threats; however, the illegal importation of illicit fentanyl via the smaller parcels that characterize low-value shipments is of particular concern.⁵³

To facilitate the flow of legitimate trade while also mitigating risks associated with the substantial increase in the number of low-value shipments, in September 2019, CBP launched a test program, called the “Entry Type 86 Test.” The test program is voluntary and open to all trade participants, and it modernizes the submission of entry data for these low-value shipments by providing for an electronic entry and clearance process. This process results in faster clearance times for these shipments, a benefit to the trade and consumers, and reduces the amount of manual time that must be spent by CBP officers clearing goods that are considered low risk. As an additional benefit, the test program allows certain low-value shipments subject to the requirements of partner government agencies (PGAs) like the U.S. Food and Drug Administration (FDA) or the U.S. Department of Agriculture (USDA) to be entered without filing an informal type 11 or formal entry. For any dutiable merchandise, filing an informal type 11 or formal entry requires the payment of duties even for qualifying low-value shipments that would otherwise be exempt under the administrative exemption.

In exchange for improved clearance times and the ability to use the administrative exemption for low-value goods subject to PGA requirements, as part of the electronic filing process, trade participants provide additional information about each shipment. This additional information allows CBP to better identify and focus on relatively higher-risk shipments, such as those suspected of containing illicit fentanyl. Although these shipments are low value, they pose the same potential health, safety, and economic security risks as larger and more traditional containerized shipments. In FY 2023, the overwhelming majority of CBP actions on

⁵² Data provided by CBP’s Office of Field Operations on July 6, 2023 (FY2015) and CBP’s Office of Trade on November 8, 2023 (FY2023).

⁵³ Fentanyl is a potent synthetic opioid that is contributing to the ongoing opioid crisis in the United States.

inadmissible cargo were taken against low-value goods. Of 107,300 seizures across all cargo types, 93,065 (87 percent) were seizures of low-value cargo.⁵⁴ CBP faces significant challenges in targeting these low-value shipments, while still maintaining the clearance speeds the private sector has come to expect.

While CBP receives some advance electronic data for low-value shipments from carriers, the transmitted data often does not adequately identify the entity causing the shipment to cross the border, the final recipient, or the contents of the package. For example, in today's environment, CBP may not receive any advance information on the entity causing the shipment to travel to the United States (e.g., the seller or manufacturer). Taken together, the overwhelming volume of low-value packages as well as the vague and inaccurate electronic data, pose a significant challenge to CBP's ability to identify and interdict high risk packages. The provision of additional data also facilitates CBP's ability to properly vet shipments requiring review by PGAs and request presentation of the merchandise for inspection, when necessary.

The test program has been embraced by a large portion of the trade community, which appreciates the administrative efficiency of the electronic process, substantially faster clearance of low-risk shipments, and in certain cases, lawful avoidance of duties and taxes, including for shipments subject to PGA requirements. Many members of the trade community have begun utilizing entry type 86 for some or all of their low-value shipments. Previously, these filers would have utilized release from manifest (including shipments entered through the express environment) or formal or informal entry (i.e., type 01 or 11).

From CBP's perspective, the test has been successful, but certain modifications can close identified security gaps. The modernization of the filing process for these shipments was essential to facilitating the flow of trade. Absent an automated CBP process, under current funding and staffing constraints, CBP would have faced significant challenges processing the

⁵⁴ Seizure statistics provided by CBP subject matter experts on September 27, 2024. These data are from CBP's seizure database (SEACATS) and are specifically cargo-related seizures and do not include seizures in the passenger environment or seizures performed by U.S. Border Patrol or Air and Marine Operations.

current quantity of low-value shipments under the release from manifest process. However, to achieve significant security improvements and better facilitate the flow of legitimate trade, CBP believes the transmission of additional information about the contents of each shipment is necessary.

In this rulemaking, CBP proposes codifying the successful elements of the Entry Type 86 Test, including the provision of an electronic entry and automated clearance process for qualifying low-value shipments and duty- and tax-free entry for qualifying low-value PGA goods, while also adding new data requirements to the entry filing. As an example, filers may choose to provide an internet address, known as the uniform resource locator (URL), to the product's online listing or another image of the product as part of the entry filing.⁵⁵ The data collected through this "enhanced entry process" will further improve CBP's ability to quickly release legitimate qualifying low-value shipments, allowing its officers to focus on targeting higher-risk shipments. Ultimately, CBP anticipates this increased focus on higher-risk shipments will improve its ability to intercept illicit goods, such as fentanyl. Importantly, under the proposed rule, use by the trade of the enhanced entry process continues to be voluntary; CBP will also continue to offer a process similar to the existing release from manifest process with more limited data requirements, referred to as the "basic entry process."

The report accompanying this NPRM includes two separate analyses. First, we estimate the incremental benefits and costs of the Entry Type 86 Test, beginning in 2020 and assuming that the test would continue uninterrupted in the future (through 2034) in the absence of this rulemaking effort. CBP believes this assumption is reasonable because both CBP and industry participants have made significant logistical and administrative changes in order to achieve the benefits of electronic entry and clearance.

⁵⁵ For a complete list of the proposed changes to the data elements required for the enhanced entry process, please see chapter 1 of the full regulatory impact analysis included in the docket of this rulemaking.

Second, we estimate the future incremental benefits and costs of the proposed rule, which creates the new, voluntary enhanced entry process and retains, with minor revisions, the current release from manifest process. We estimate these incremental benefits and costs relative to a baseline (counterfactual) scenario where entry type 86 remains an option for entering qualifying low-value shipments into the United States. In addition, we present these impacts relative to a baseline without the Entry Type 86 Test to help readers understand the combined effect of the program that is being codified in the rulemaking as well as the modifications to the program under consideration in the proposed rule. Impacts are estimated from 2025 through 2034 (10 years).

For the Entry Type 86 Test, our analysis finds that the benefits of automation and faster clearance are likely to outweigh the burden of providing additional data. Potential security benefits are discussed qualitatively. We also find that some parties utilizing entry type 86 benefit from reduced tariff payments relative to other entry options. Available peer-reviewed literature suggests that the reduced tariff payments associated with a portion of the affected shipments is likely to affect U.S. consumers in the form of lower prices, making the lost tariff revenue a transfer of resources from the U.S. Government to consumers.⁵⁶

For the proposed rule, we quantify additional administrative costs, while additional security benefits are discussed qualitatively. Processing clearance times are unchanged relative to the Entry Type 86 Test. Similarly, no additional transfers, including reduced tariff payments, result from the proposed rule. Our findings are discussed in greater detail in the remainder of this summary of the aforementioned regulatory impact analysis in the docket of this rulemaking.

2. Need for the Proposed Rule

In 2016, section 901(d) of TFTEA amended 19 U.S.C. 1321(a)(2)(C) by increasing the daily value limit for the administrative exemption from \$200 to \$800. CBP published an interim

⁵⁶ Please see chapter 5 of the full regulatory impact analysis included in the docket of this rulemaking for additional information.

final rule amending the regulations to implement the new statutory amount and to specify certain goods excluded from the administrative exemption.⁵⁷ Otherwise, CBP has not made any significant changes to the regulatory requirements by which such shipments are entered since 1995. In the nearly three decades since, however, there have been significant changes in the trade environment and supply chains, substantial increases in the volume of shipments, and advancements to CBP's capabilities that necessitate the modernization of these regulations to better serve both CBP and the trade community.

3. Summary of the Proposed Rule

In the proposed rule, CBP seeks to codify an electronic entry process for qualifying low-value shipments seeking entry into the United States. Under this process, advance data elements are transmitted to CBP via a CBP-authorized electronic data interchange (EDI) system, such as the Automated Commercial Environment (ACE). This proposed new process is termed the "enhanced entry process." In order to file an enhanced entry, CBP will require the submission of certain advance electronic data, including data about the contents, value, origin, and final destination of eligible shipments. This information will enable CBP to more efficiently target high-risk shipments while maintaining expedited clearance for low-risk shipments submitting advance data. This rulemaking also proposes to create an HTSUS waiver that would allow certain approved entities to use the enhanced entry process without providing an HTSUS number in certain cases.

Filing entry under the enhanced entry process is optional. Shipments subject to PGA requirements may use the enhanced entry process or entry types 01 and 11, as well as other appropriate entry types.⁵⁸ The enhanced entry process will not be available for shipments subject

⁵⁷ 81 FR 58831 (Aug. 26, 2016).

⁵⁸ While other entry types are available, entry type 01 and 11 volumes far surpass those of all other entry types to the point where they do not measurably impact the effects of the rule. Therefore, for the purposes of this analysis, CBP focuses on type 01 and 11 volumes.

to PGA fees; such shipments must be entered as an informal entry type 11 or formal entry, or other appropriate entry type, subject to payment of all applicable duties, taxes, and fees.⁵⁹

Finally, the current default clearance process for qualifying low-value shipments, known as the “release from manifest” process, will continue to be offered with some modifications described below, and will be referred to as the “basic entry process.” The basic entry process may not be utilized for goods subject to PGA data requirements.⁶⁰

CBP considered two additional regulatory alternatives; neither alternative is embodied in this NPRM. First, CBP considered a less stringent alternative formalizing the Entry Type 86 Test through a rulemaking that would make entry type 86 permanent. This scenario represents a continuation of existing entry options for low-value shipments under the test with no changes to entry processes or required data elements. Second, CBP considered a more stringent regulatory alternative in which the enhanced entry process did not include an option for filers to obtain a HTSUS waiver privilege (“waiver”) from CBP. This waiver is intended for filers with demonstrated capabilities and histories of segmenting out goods subject to PGA requirements. The waiver lifts the data requirement for the 10-digit Harmonized Tariff Schedule of the United States (HTSUS) classification as part of the enhanced entry for qualifying low-value goods that are not subject to PGA requirements. Under this regulatory alternative, such a waiver would not be made available to any filers.⁶¹

4. Entry Type 86 Test Benefits, Costs, and Transfers

This analysis first estimates the past and future effects of the existing Entry Type 86 Test, assuming no new rule is promulgated. We estimate effects on CBP, customs brokers, software providers, express consignment operators and carriers (ECOs), and importers. We estimate

⁵⁹ Not all PGA shipments are subject to fees, which are separate and distinct from duties and taxes. Shipments subject to PGA fees may not use the enhanced entry process for low-value shipments and instead must file a formal or informal type 11 entry, or other appropriate type of entry. Qualifying low-value PGA shipments that are not subject to any PGA fees will be eligible to use the enhanced entry process.

⁶⁰ Please see chapter 1 of the full regulatory impact analysis included in the docket of this rulemaking for a detailed discussion of the data elements required for the enhanced and basic entry processes.

⁶¹ Regulatory alternatives are discussed in greater detail in chapter 10 of the full regulatory analysis.

benefits and transfers using information provided by affected entities, including impacts to clearance times, tariff payments, and express fees.⁶² To estimate costs, we rely on information provided during discussions with CBP and interviews with the trade industry.⁶³ Many of these outcomes are informed by our understanding of historical shipment volumes and expectations as to future growth in low-value shipments. Based on our analysis, effects of the Entry Type 86 Test include the following:

- **Benefits:** The primary benefit is faster release of low-value shipments into commerce resulting from the automated clearance process. These benefits are quantified based on peer-reviewed literature estimating willingness to pay for saving a day of transit time per shipment.⁶⁴ In addition, the Entry Type 86 Test has improved CBP's ability to target inadmissible goods, resulting in security-related benefits.
- **Costs:** Administrative implementation costs focus on activities such as software reprogramming, staff training, and additional data collection. These implementation costs are offset by administrative cost savings associated with reduced CBP officer time reviewing documentation and reduced administrative time preparing filings for shipments that switch from informal type 11 or formal entry to entry type 86. Relevant unit costs and cost savings are estimated based on interviews with the trade and CBP staff.⁶⁵
- **Transfers:** Two types of transfers are likely, including reduced revenues to the U.S. Government due to importers opting for entry type 86 instead of entry types subject to express fees⁶⁶ (*i.e.*, manifest clearance in express hubs) and tariffs (*i.e.*, informal type 11 or formal entries). These revenues are estimated based on express fees published in the

⁶² Please see chapter 5 of the full regulatory impact analysis included in the docket of this rulemaking for a more detailed discussion.

⁶³ Please see chapter 4 of the full regulatory impact analysis included in the docket of this rulemaking for more detail.

⁶⁴ Please see chapters 3 and 5 of the full regulatory impact analysis included in the docket of this rulemaking for additional information.

⁶⁵ Please see chapters 3 and 4 of the full regulatory impact analysis included in the docket of this rulemaking for additional information.

⁶⁶ 19 U.S.C. 58c(b)(9)(A)(ii); 19 CFR 24.23(b). The express fee refers to the express consignment carrier/centralized hub facility fee, per individual waybill/bill of lading.

Federal Register and tariff rates available from the U.S. International Trade

Commission.⁶⁷

Where possible, we quantify and monetize these impacts over a 15-year period from 2020 to 2034. These outcomes are the incremental effects of the Entry Type 86 Test relative to a baseline scenario where entry type 86 is not available. Table 1 summarizes these quantified benefits, costs, and cost savings (excluding transfers) through time and presents net benefits for each year. Based on our analysis, the total net benefits of the Entry Type 86 Test are estimated to be approximately \$19 billion (undiscounted, 2023 dollars) over the 15-year period. In present value terms, the net benefits are approximately \$17 billion (assuming a 2 percent discount rate).

Table 1. Summary of Total Entry Type 86 Test Benefits, Costs, and Cost Savings (in 2023 dollars)^{c,d}

Fiscal Year	Benefits	Costs	Cost Savings	Net Benefits
	(A)	(B)	(C)	(= A - B + C)
Past Impacts				
2020	\$43,030,483	\$4,316,816	\$127,208,543	\$165,922,210
2021	\$139,966,936	\$3,758,383	\$361,271,949	\$497,480,501
2022	\$129,442,889	\$3,678,928	\$351,131,510	\$476,895,471
2023	\$282,639,872	\$6,022,697	\$650,253,194	\$926,870,369
2024	\$311,757,221	\$6,547,586	\$717,241,795	\$1,022,451,430
Total undiscounted	\$906,837,401	\$24,324,410	\$2,207,106,990	\$3,089,619,981
Total present value (2 percent)^a	\$948,430,560	\$25,682,967	\$2,312,234,507	\$3,234,982,100
Annualized (2 percent)^b	\$178,675,386	\$4,838,429	\$435,603,206	\$609,440,162
Future Impacts				
2025	\$340,874,571	\$7,072,475	\$784,230,396	\$1,118,032,491
2026	\$369,991,920	\$7,597,365	\$851,218,997	\$1,213,613,552
2027	\$399,109,270	\$8,122,254	\$918,207,598	\$1,309,194,614
2028	\$428,226,620	\$8,647,144	\$985,196,199	\$1,404,775,675
2029	\$457,343,969	\$9,172,033	\$1,052,184,800	\$1,500,356,736

⁶⁷ Please see chapters 3 and 5 of the full regulatory impact analysis included in the docket of this rulemaking for additional information.

2030	\$486,461,319	\$9,696,922	\$1,119,173,401	\$1,595,937,797
2031	\$515,578,669	\$10,221,812	\$1,186,162,002	\$1,691,518,859
2032	\$544,696,018	\$10,746,701	\$1,253,150,603	\$1,787,099,920
2033	\$573,813,368	\$11,271,591	\$1,320,139,204	\$1,882,680,981
2034	\$602,930,718	\$11,796,480	\$1,387,127,805	\$1,978,262,042
Total undiscounted	\$4,719,026,442	\$94,344,777	\$10,856,791,003	\$15,481,472,668
Total present value (2 percent)^a	\$4,280,128,169	\$85,655,755	\$9,847,043,148	\$14,041,515,561
Annualized (2 percent)^c	\$423,111,089	\$8,467,480	\$973,427,194	\$1,388,070,803
Past and Future Impacts (2020-2034)				
Total undiscounted	\$5,625,863,843	\$118,669,187	\$13,063,897,993	\$18,571,092,649
Total present value (2 percent)^a	\$5,228,558,729	\$111,338,723	\$12,159,277,655	\$17,276,497,661
Annualized (2 percent)^d	\$361,328,921	\$7,694,262	\$840,288,674	\$1,193,923,333

Notes:

We present unrounded values in the table to facilitate replication of our analysis. For reporting purposes, and to reflect the uncertainty inherent in these estimates, we recommend rounding these estimates to two significant figures.

Table does not include transfers (see Table 2 for transfers).

- a. Present value calculations use 2025 as the base year.
- b. Benefits, costs, and net benefits for past years are annualized over a 5-year period from 2020 to 2024.
- c. Benefits, costs, and net benefits for future years are annualized over a 10-year period from 2025 to 2034.
- d. Benefits, costs, and net benefits for all years are annualized over a 15-year period from 2020 to 2034.

Table 2 illustrates the effects of the Entry Type 86 Test from 2025 through 2034 by presenting a distribution of the benefits, costs, cost savings, transfers, and net benefits experienced by each entity type. Administrative implementation activities produce an annualized net benefit of approximately \$960 million (2 percent discount rate, 2023 dollars) and improvements in clearance time produce an annualized net benefit of approximately \$420 million (2 percent discount rate, 2023 dollars). Changes in express fees and tariffs paid by consignees are considered to be transfers, producing \$0 in net benefits. Importantly, impacts on social welfare and fiscal impacts are not additive; the former represents estimates of willingness to pay and opportunity costs, while the latter reflects changes in revenue.

Table 2. Summary of Entry Type 86 Test Annualized Impacts by Entity Type From 2025-2034 (2 Percent Discount Rate, in 2023 dollars)

Effect	U.S. Government	Trade/Consumers	Net Effect
Impacts on Social Welfare:			
Administrative Implementation	\$972,773,259	(\$7,813,546)	\$964,959,714
Transmitting Data	\$0	(\$7,267,112)	(\$7,267,112)
Programming	(\$227,558)	(\$612,630)	(\$840,188)
Training	\$0	\$0	\$0
Collecting New Data Elements	\$0	(\$360,180)	(\$360,180)
Time Savings	\$973,000,818	\$426,376	\$973,427,194
Improved Clearance Time	\$0	\$423,111,089	\$423,111,089
Total Increase in Social Welfare	\$972,773,259	\$415,297,543	\$1,388,070,803
Fiscal Impacts (Transfers):			
Tariffs	(\$2,095,103,797)	\$2,095,103,797	\$0
Express Fees	(\$163,886,413)	\$163,886,413	\$0
Total Fiscal Impacts	(\$2,258,990,211)	\$2,258,990,211	\$0

Notes:

We present unrounded values in the table to facilitate replication of our analysis. For reporting purposes, and to reflect the uncertainty inherent in these estimates, we recommend rounding these estimates to two significant figures.

Costs are shown using parentheses.

- a. Present value calculations use 2025 as the base year.
- b. Impacts are annualized over 10 years from 2025 to 2034. We estimate the annualized impacts from the perspective of an individual in 2020, when entities started incurring costs or benefits related to the Entry Type 86 Test. This reflects the equal payment that would need to be made in each of the 10 years to equal the total present value of the costs and benefits.

The full regulatory impact analysis included in the docket of this rulemaking provides detailed discussions of key sources of uncertainty related to costs, benefits, and transfers of the Entry Type 86 Test. The full regulatory impact analysis also includes a quantitative sensitivity analysis to highlight the importance of key assumptions and presents the results in appendix A.

5. Proposed Rule Benefits, Costs, and Transfers

This proposed rule updates the data elements currently required under the Entry Type 86 Test. We estimate impacts likely to be experienced by CBP, customs brokers, software providers, ECOs, and consignees due to the provision of these additional data elements. While

the proposed rule is expected to produce security benefits, we are unable to quantify these benefits in this analysis due to data limitations.⁶⁸ As with our analysis of the Entry Type 86 Test, we estimate costs of the proposed rule using information obtained through discussions with CBP and interviews with the trade.⁶⁹ Key cost categories include administrative implementation activities, such as software reprogramming, staff training, and additional data collection. Incremental changes in tariff or fee revenue relative to Baseline 1 are not anticipated.

For the three regulatory alternatives considered by CBP, we estimate the anticipated benefits, costs, and transfers under two baseline scenarios. We first consider the incremental effects of the proposed rule relative to a baseline scenario where CBP continues to implement the Entry Type 86 Test. This scenario reflects the most likely forecast of available entry types absent the proposed rule. CBP is not currently equipped to handle the now-sizable low-value shipment volumes manually without any automated clearance process like entry type 86. Reverting to an entirely manual process would be infeasible and contrary to CBP's mission to facilitate the entry of legitimate goods into the United States.

We also present results considering an alternative baseline scenario regarding the future availability of an automated entry process in the absence of a new rule. This alternative baseline scenario assumes that, beginning in 2025, the technology and processes developed for electronic filing and automated clearance under the Entry Type 86 Test would no longer be available for low-value shipments and, effectively, are reinstated with this rulemaking. This baseline scenario is a counterfactual used to illustrate the cumulative effects of this rulemaking and not an announcement of a change to the existing Entry Type 86 Test. The practical result of applying this alternative baseline scenario is an estimate of the cumulative impacts of (1) continuing to leverage the advances made with the implementation of the Entry Type 86 Test, while also (2)

⁶⁸ Please see chapter 9 of the full regulatory impact analysis included in the docket of this rulemaking for additional information.

⁶⁹ Please see chapter 8 of the full regulatory impact analysis included in the docket of this rulemaking for additional information.

making enhancements to the process via the proposed rule. CBP recognizes that the public may have an interest in understanding the combined effect of the program that is being codified in the rulemaking as well as the modifications to the program under consideration in the proposed rule and this baseline scenario allows the reader to do that – the effects, when measured against this baseline scenario, are the total prospective effects of the Entry Type 86 Test and this rulemaking. For the purposes of this analysis, CBP considers the second baseline to be the primary baseline for this rulemaking.

Where possible, we quantify and monetize these impacts over a 10-year period from 2025 to 2034. Table 3 provides a summary of the costs, benefits, and transfers resulting from each regulatory alternative, including relevant chapters where these impacts are presented.

Table 3. Summary of the Incremental Impacts of Regulatory Alternatives Under Alternative Baseline Scenarios

Regulatory alternative ^a	Baseline scenario (2025-2034)	
	Baseline 1: Entry Type 86 Test continues	Baseline 2: No Entry Type 86 Test
1. Codify the Entry Type 86 Test	Costs, benefits, and transfers are zero.	Costs, benefits, and transfers of the proposed rule are equivalent to the future impacts estimated for Entry Type 86 Test. ^b
2. (Preferred) Enhanced entry with HTSUS waiver available	Costs, benefits, and transfers are presented in Chapters 7 to 9 of the full analysis.	Costs, benefits, and transfers of the proposed rule are equal to the sum of the Entry Type 86 Test future impacts and the proposed rule impacts. ^b
3. Enhanced entry with no HTSUS waiver available	Costs, benefits, and transfers are presented in Chapters 7 to 9 of the full analysis, including unquantified costs associated with no waiver provision.	Costs, benefits, and transfers of the proposed rule are equal to the sum of the Entry Type 86 Test future impacts, the proposed rule impacts, and unquantified costs associated with no waiver provision. ^b
Notes:		
a. Detailed discussion of regulatory alternatives is available in Chapter 10 of the full analysis.		
b. Detailed discussion of future Entry Type 86 Test impacts and this proposed rule’s impacts is available in Chapters 3 to 6 and Chapters 7 to 9 of the full analysis respectively.		

a. Preferred Regulatory Alternative: Baseline 1 (Entry Type 86 Test Continues)

Table 4 presents total present value costs assuming a baseline where the Entry Type 86 Test were to continue in the absence of this new regulation. Because benefits are unquantified, we are unable to calculate the likely net benefits of the proposed rule. Total present value costs of the proposed rule over the 10-year period of analysis are estimated to be approximately \$110 million (2023 dollars), assuming a discount rate of 2 percent.

Table 4. Summary of Proposed Rule Benefits and Costs – Baseline 1: Entry Type 86 Test Continues (in 2023 dollars)

Fiscal Year	Benefits	Costs^c	Net Benefits^d
2025	Positive Unquantified	\$91,854,198	-
2026	Positive Unquantified	\$2,139,656	-
2027	Positive Unquantified	\$2,184,004	-
2028	Positive Unquantified	\$2,228,352	-
2029	Positive Unquantified	\$2,272,700	-
2030	Positive Unquantified	\$2,317,048	-
2031	Positive Unquantified	\$2,361,396	-
2032	Positive Unquantified	\$2,405,744	-
2033	Positive Unquantified	\$2,450,092	-
2034	Positive Unquantified	\$2,494,440	-
Total undiscounted	Positive Unquantified	\$112,707,628	-
Total present value (2 percent)^a	Positive Unquantified	\$110,718,728	-
Annualized present value (2 percent)^b	Positive Unquantified	\$12,084,247	-

Notes:

- a. Present value calculations use 2025 as the base year.
- b. Costs are annualized over a 10-year period from 2025 to 2034.
- c. We present unrounded values in the table to facilitate replication of our analysis. For reporting purposes, and to reflect the uncertainty inherent in these estimates, we recommend rounding these estimates to two significant figures.
- d. Net benefits are uncertain due to our inability to quantify the likely incremental security benefits of the proposed rule.

Table 5 presents the distribution of costs and benefits by entity type assuming a baseline where the Entry Type 86 Test exists. Affected entities include the U.S. Government (representing CBP, the Department of the Treasury, and PGAs) and trade/consumers (including customs brokers, software providers, ECOs, importers, and other industry participants, including consumers). Administrative implementation activities are likely to cost approximately \$12 million (2023 dollars) on an annualized basis, assuming a discount rate of 2 percent. Security-

related effects, including providing the data needed to help interdict fentanyl smuggling, result in positive benefits that we are unable to quantify due to data limitations. Improvements in clearance time, and changes in express fees and tariffs paid by trade participants, are unlikely to result from the proposed rule when compared to the baseline that includes the Entry Type 86 Test.

Table 5. Summary of Proposed Rule Annualized Impacts by Entity Type – Baseline 1: Entry Type 86 Test Continues (2 Percent Discount Rate, in 2023 dollars)

Effect	U.S. Government	Trade/Consumers	Subtotal
Impacts on Social Welfare:			
Administrative Implementation	(\$680,248)	(\$11,403,999)	(\$12,084,247)
Transmitting Data	\$0	\$0	\$0
Programming	(\$680,248)	(\$10,657,045)	(\$11,337,293)
Training	\$0	(\$35,450)	(\$35,450)
Collecting New Data Elements	\$0	(\$711,504)	(\$711,504)
Time Savings	\$0	\$0	\$0
Improved Clearance Time	\$0	\$0	\$0
Security	Positive Unquantified	Positive Unquantified	Positive Unquantified
Total Increase in Social Welfare	(\$680,248)	(\$11,403,999)	(\$12,084,247)
Fiscal Impacts (Transfers):			
Tariffs	\$0	\$0	\$0
Express Fees	\$0	\$0	\$0
Total Fiscal Impacts	\$0	\$0	\$0

Notes:

We present unrounded values in the table to facilitate replication of our analysis.

Costs are shown using parentheses.

- a. Present value calculations use 2025 as the base year.
- b. Costs are annualized over 10 years from 2025 to 2034.

The full regulatory impact analysis included in the docket of this rulemaking provides detailed discussions of key sources of uncertainty related to costs, benefits, and transfers of this

proposed rule. The full regulatory impact analysis also includes a quantitative sensitivity analysis to highlight the importance of key assumptions and presents the results in appendix A.

b. Preferred Regulatory Alternative: Baseline 2 (No Entry Type 86 Test)

Table 6 presents total present value costs assuming a baseline where the Entry Type 86 Test does not exist. Because security benefits of the Entry Type 86 Test and the proposed rule are unquantified, the likely cumulative net benefits of these interventions are underestimated. Assuming a baseline without the Entry Type 86 Test, total present value net benefits over the 10-year period of analysis are estimated to be at least \$14 billion (2023 dollars), assuming a discount rate of 2 percent.

Table 6. Summary of Cumulative Benefits and Costs – Baseline 2: No Entry Type 86 Test (in 2023 dollars)

Fiscal Year	Benefits ^c	Costs	Cost Savings	Net Benefits ^d
	(A)	(B)	(C)	(= A - B + C)
2025	\$340,874,571	\$98,926,674	\$784,230,396	\$1,026,178,293
2026	\$369,991,920	\$9,737,021	\$851,218,997	\$1,211,473,897
2027	\$399,109,270	\$10,306,258	\$918,207,598	\$1,307,010,610
2028	\$428,226,620	\$10,875,495	\$985,196,199	\$1,402,547,323
2029	\$457,343,969	\$11,444,733	\$1,052,184,800	\$1,498,084,036
2030	\$486,461,319	\$12,013,970	\$1,119,173,401	\$1,593,620,750
2031	\$515,578,669	\$12,583,208	\$1,186,162,002	\$1,689,157,463
2032	\$544,696,018	\$13,152,445	\$1,253,150,603	\$1,784,694,176
2033	\$573,813,368	\$13,721,682	\$1,320,139,204	\$1,880,230,890
2034	\$602,930,718	\$14,290,920	\$1,387,127,805	\$1,975,767,603
Total undiscounted	\$4,719,026,442	\$207,052,405	\$10,856,791,003	\$15,368,765,040
Total present value (2 percent)^a	\$4,280,128,169	\$196,374,484	\$9,847,043,148	\$13,930,796,832
Annualized (2 percent)^b	\$423,111,089	\$20,551,727	\$973,427,194	\$1,375,986,556

Notes:

We present unrounded values in the table to facilitate replication of our analysis. For reporting purposes, and to reflect the uncertainty inherent in these estimates, we recommend rounding these estimates to two significant figures.

- a. Present value calculations use 2025 as the base year.
- b. Benefits, costs, and net benefits are annualized over a 10-year period from 2025 to 2034.
- c. Benefits are underestimated due to our inability to quantify the anticipated security-related benefits of the proposed rule. These values reflect only the quantified benefits of the Entry Type 86 Test. The total benefits associated with a baseline without the Entry Type 86 Test would be the values presented in this table as well as additional positive unquantified benefits.
- d. Net benefits are underestimated due to our inability to quantify the likely incremental security benefits of the proposed rule.

Table 7 presents the distribution of costs and benefits by entity type assuming a baseline where the Entry Type 86 Test does not exist. Administrative implementation activities are likely to produce a positive annualized net benefit of approximately \$950 million (2 percent discount rate, 2023 dollars) and improvements in clearance time produce a positive annualized net benefit of approximately \$420 million (2 percent discount rate, 2023 dollars). Security-related effects,

including providing the data needed to help interdict illicit fentanyl, result in positive benefits that we are unable to quantify due to data limitations. Changes in express fees and tariffs paid by consignees are considered to be revenue transfers, producing \$0 in net benefits. Importantly, impacts on social welfare and fiscal impacts are not additive; the former represents estimates of willingness to pay and opportunity costs, while the latter reflects changes in revenue.

Table 7. Summary of Proposed Rule Annualized Impacts by Entity Type - Baseline 2: No Entry Type 86 Test (2 Percent Discount Rate, in 2023 dollars)

Effect	U.S. Government	Trade/Consumers	Subtotal
Impacts on Social Welfare:			
Administrative Implementation	\$972,093,012	(\$19,217,545)	\$952,875,467
Transmitting Data	\$0	(\$7,267,112)	(\$7,267,112)
Programming	(\$907,806)	(\$11,269,675)	(\$12,177,481)
Training	\$0	(\$35,450)	(\$35,450)
Collecting New Data Elements	\$0	(\$1,071,684)	(\$1,071,684)
Time Savings	\$973,000,818	\$426,376	\$973,427,194
Improved Clearance Time	\$0	\$423,111,089	\$423,111,089
Security	Positive Unquantified	Positive Unquantified	Positive Unquantified
Total Increase in Social Welfare	\$972,093,012	\$403,893,545	\$1,375,986,556
Fiscal Impacts (Transfers):			
Tariffs	(\$2,095,103,797)	\$2,095,103,797	\$0
Express Fees	(\$163,886,413)	\$163,886,413	\$0
Total Fiscal Impacts	(\$2,258,990,211)	\$2,258,990,211	\$0

Notes:

We present unrounded values in the table to facilitate replication of our analysis.

Costs are shown using parentheses.

- a. Present value calculations use 2025 as the base year.
- b. Costs are annualized over 10 years from 2025 to 2034.

The full regulatory impact analysis included in the docket of this rulemaking provides detailed discussions of key sources of uncertainty related to costs, benefits, and transfers of this

proposed rule. The full regulatory impact analysis also includes a quantitative sensitivity analysis to highlight the importance of key assumptions and presents the results in appendix A.

c. Summary of Regulatory Alternatives

Table 8 summarizes estimates of net benefits for each regulatory alternative relative to the two different baseline scenarios described earlier. Incremental effects estimated relative to Baseline 1 reflect the net benefits of the enhancements to the existing Entry Type 86 Test that will be codified if the proposed rule is finalized. Incremental effects estimated relative to Baseline 2 reflect the cumulative net benefits of continuing to leverage the systems and processes put in place to implement the Entry Type 86 Test in combination with the enhancements included in the proposed rule. To reflect the uncertainty inherent in the analysis presented in this report, we round our results to two significant figures.

Table 8. Annualized Net Benefits of Regulatory Alternatives (2 Percent Discount Rate, in 2023 dollars)^{a,b,c}

Regulatory Alternative	Baseline Scenario	
	Baseline 1: ^d Entry Type 86 Test Continues	Baseline 2: ^e No Entry Type 86
1. Codify Entry Type 86 Test	\$0	\$1.4 billion + unquantified security benefits
2. (Preferred) Enhanced entry with HTSUS waiver available	-\$12 million + unquantified security benefits associated with enhanced data elements (e.g., URL)	\$1.4 billion + unquantified security benefits associated with HTSUS and enhanced data elements (e.g., URL)
3. Enhanced entry with no HTSUS waiver available	-\$12 million + unquantified security benefits associated with enhanced data elements (e.g., URL) - unquantified costs of obtaining HTSUS codes if no waiver is available	\$1.4 billion + unquantified security benefits associated with HTSUS and enhanced data elements (e.g., URL) - unquantified costs of obtaining HTSUS codes if no waiver is available

Notes:

- a. To reflect the uncertainty inherent in these estimates, we round estimates to two significant figures.
- b. Net benefits are annualized over a 10-year period from 2025 to 2034.
- c. Implementation of the Entry Type 86 Test also results in substantive transfers between the U.S. Government and consumers in the form of reduced tariffs and fees. These transfers are summarized in Table 2. Because the transfers represent off-setting costs to the U.S. Government and benefits to consumers, their net benefit is \$0. The enhancements considered in the proposed rule are unlikely to result in additional transfers.
- d. Incremental effects estimated relative to Baseline 1 reflect the net benefits of the enhancements to the existing Entry Type 86 Test that will be codified if the proposed rule is finalized.
- e. Incremental effects estimated relative to Baseline 2 reflect the cumulative net benefits of continuing to leverage the systems and processes put in place to implement the Entry Type 86 Test in combination with the enhancements included in the proposed rule.

B. Additional Requirements for Regulatory Analysis

Table 9 provides a cost accounting statement for the proposed rule where the baseline includes the Entry Type 86 Test. Table 10 provides the analogous information assuming the Entry Type 86 Test did not exist.

Table 9. A-4 Accounting Statement for the Proposed Rule – Baseline 1 (Entry Type 86 Test Continues)

Category	Annualized Estimate (in 2023 dollars) ¹
Benefits	
Monetized benefits	None

Quantified, non-monetized benefits	None
Qualitative (unquantified) benefits	Improved security resulting from more efficient targeting of inbound low-value shipments. Improved security includes the interdiction of fentanyl smuggling, among other things. Enforcement of customs regulations plays a critical role in protecting the American public, environment, and economy.
Costs	
Monetized costs	\$12 million
Quantified, non-monetized costs	None
Qualitative (unquantified) costs	None
Transfers	
Monetized budgetary transfers	None
Other monetized transfers	None
Distributional Effects	
Effects on State, local, and/or tribal governments	Which entities are affected by the proposed rule depends on whether the costs associated with transmitting shipments through the enhanced entry process are passed on to consumers in the form of higher prices. If customs brokers and express consignment operators (ECOs) bear the costs, then at least 314 small businesses may be affected; however, only some medium and large volume brokers are projected to incur costs that exceed 1 percent of their annual revenues. If consignees bear the costs through increased prices, then any small business, organization, or government jurisdiction importing low-value shipments has the potential to be affected. The increase in the cost per shipment is estimated to be \$0.01, or 0.03% of the average value of low-value shipments.
Effects on small businesses	
Effects on wages	
Effects on growth	Not anticipated

Source: Calculations using data sources described throughout the main text.

¹ Present value calculations use 2025 as the base year. Costs are annualized over 10 years from 2025 to 2034 and reflect a 2 percent discount rate.

Table 10. A-4 Accounting Statement for the Proposed Rule – Baseline 2 (No Entry Type 86 Test)

Category	Annualized Estimate (in 2023 dollars)
Benefits	
Monetized benefits	\$420 million
Quantified, non-monetized benefits	None
Qualitative (unquantified) benefits	Improved security resulting from more efficient targeting of inbound low-value shipments. Improved security includes the interdiction of fentanyl smuggling, among other things. Enforcement of customs regulations plays a critical role in protecting the American public, environment, and economy.
Costs	
Monetized costs	\$21 million
Quantified, non-monetized costs	None
Qualitative (unquantified) costs	Costs to brokers of verifying and assigning HTSUS codes the first time a new product is shipped. Because this cost category only applies to new products, and given the potential economies of scale, the omission of this cost estimate may result in only a minor overstatement of net benefits.
Cost Savings	
Monetized costs savings	\$970 million
Quantified, non-monetized cost savings	None
Qualitative (unquantified) cost savings	None
Transfers	
Monetized budgetary transfers	\$2.3 billion
Other monetized transfers	None
Distributional Effects	
Effects on State, local, and/or tribal governments	Which entities are affected by the proposed rule depends on whether the costs associated with transmitting entry information through the enhanced entry process are passed on to consumers in the form of higher prices. If customs brokers, ECOs, and software providers bear the costs, then at least 314 small businesses may be affected; however, only some medium and large volume brokers and software providers are projected to incur costs that exceed 1 percent of their annual revenues. If consignees bear the costs through increased prices, then any small business, organization, or government jurisdiction importing qualifying low-value goods has the potential to be affected. However, costs to consignees are offset by the value of time savings and reduced tariffs and fees. The net effect is a decrease in the cost per shipment of \$2.86, or a savings equal to approximately 8.9% if the value of a shipment.
Effects on small businesses	
Effects on wages	
Effects on growth	

C. Regulatory Flexibility Act

This section examines the impact on small entities as required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et. seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). The following presents a summary of the small business analysis of the aforementioned regulatory impact analysis included in the docket of this rulemaking (docket number [USCBP-2025-0002]).

This rulemaking will have direct effects on consignees, brokers, ECOs, and software vendors, but it is not clear the extent to which effects are passed on from the brokers, ECOs, and software vendors to the consignees, so CBP conducted the threshold analysis under two scenarios – that all the costs are passed on and that none of the costs are passed on. The analysis demonstrates that under both scenarios, a substantial number of small businesses may be affected by the proposed rule. Assuming brokers, ECOs, and software providers fully bear the costs they incur (Scenario 1), we estimate that 75 percent of sampled entities qualify as small businesses. Extrapolating from a sample to the full population of affected brokers and software providers suggests that at least 314 affected entities are small businesses.⁷⁰ Under the alternate assumption that consignees bear the cost of the rule (Scenario 2), any small entity in the United States has the potential to be affected by the rule as a consignee. Analysis of a sample of consignees for one day in 2023 demonstrates that 92 percent of businesses in the sample qualify as small businesses. As such, we conclude that this rulemaking could affect a substantial number of small entities.

⁷⁰ (71 percent * 364 low-volume brokers) + 16 medium- and high-volume brokers + (86 percent * 46 software providers) = 314 small businesses among the affected industries included in Scenario 1.

We next analyze whether the effects of the rule are significant. CBP considers effects of more than one percent of gross annual revenues to be significant. We find that under Scenario 1, low-volume brokers that are small businesses are unlikely to be significantly affected by the rule while medium- and high-volume brokers and software providers that are small businesses are likely to experience costs more than one percent of annual revenues. In Scenario 2 the impact on small entities is uncertain because we lack per consignee annual shipment volumes needed to calculate entity specific costs. In the “Entry Type 86 continues” baseline, comparing the potential increase in cost per shipment with the average value per shipment suggests the impact on consignees is unlikely to be significant. In the “no Entry Type 86 Test” baseline, consignees experience a significant net benefit given the clearance time savings, reduced tariff payments, and reduced express fees.⁷¹

Due to uncertainty regarding whether impacts to various small entities are significant and because CBP does not know the extent to which the costs will be passed on from brokers and software providers to the consignees, CBP does not certify that this rulemaking has a significant economic impact on a substantial number of small entities and instead we have prepared an Initial Regulatory Flexibility Analysis. CBP requests comment on this conclusion.

D. Initial Regulatory Flexibility Analysis (IRFA)

1. A description of the reasons why action by the agency is being considered

Section 321(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)), as amended by the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), section 901, Public Law 114-125, 130 Stat. 122, authorizes administrative exemptions from duty and tax for three categories of articles. These categories include: bona-fide gifts valued at \$100 or less (\$200, if the gift is from certain island possessions) sent from persons in foreign countries to persons in the United States; certain personal or household articles valued at \$200 or less accompanying persons

⁷¹ Please see chapter 11 of the full regulatory impact analysis included in the docket of this rulemaking for additional information.

arriving in the United States; and other articles when the value of the article is \$800 or less.⁷²

These exemptions are subject to the condition that the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty cannot exceed the authorized amounts. Also, these exemptions are not to be granted if merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit of duty- and tax-free entry.

This proposed rulemaking primarily concerns shipments covered by the administrative exemption in 19 U.S.C. 1321(a)(2)(C), *i.e.*, shipments of merchandise (other than bona-fide gifts and certain personal and household goods accompanying travelers arriving from abroad) imported by one person on one day and having an aggregate fair retail value in the country of shipment of not more than \$800.

In 2016, section 901(d) of TFTEA amended 19 U.S.C. 1321(a)(2)(C) by increasing the daily value limit for the administrative exemption from \$200 to \$800.⁷³ CBP published an interim final rule amending the regulations to implement the new statutory amount and to specify certain goods excluded from the administrative exemption.⁷⁴ Otherwise, CBP has not made any significant changes to the regulatory requirements by which such shipments are entered since 1995. In the nearly three decades since, however, there have been significant changes in the trade environment, substantial increases in the volume of shipments, and advancements to CBP's capabilities that necessitate the modernization of these regulations to better serve both CBP and the trade community.

Firstly, e-commerce is a growing segment of the U.S. economy and has been increasing significantly for the past several years.⁷⁵ Consumer habits are changing as the internet empowers individuals to make purchases online. These advances in economic activity have led to

⁷² 19 U.S.C. 1321(a)(2).

⁷³ Section 901 did not change the administrative exemptions for bona-fide gifts and personal or household articles accompanying travelers under 19 U.S.C. 1321(a)(2)(A) and (B), respectively.

⁷⁴ 81 FR 58831 (Aug. 26, 2016).

⁷⁵ Although the administrative exemption is not limited to only e-commerce shipments, the reality is that e-commerce shipments comprise a significant portion of low-value shipments.

increasing volumes of imports of low-value shipments, creating inspection challenges for CBP. Low-value e-commerce shipments pose the same health, safety, and economic security risks as higher-value shipments. Transnational criminal organizations and other bad actors perceive low-value shipments as less likely to be interdicted because these types of shipments are not subject to the more extensive formal entry procedures. This has resulted in attempts to enter illicit goods, such as illicit fentanyl, into the country through these types of shipments. Furthermore, novel and complex e-commerce business models have complicated and added to the traditional array of parties involved in the import transaction. New or infrequent importers often possess less familiarity with U.S. customs laws and regulations, which can lead to the attempted importation of non-compliant goods. This rulemaking proposes data requirements that are tailored to capture the key parties in these modern trade transactions (*e.g.*, the seller, purchaser, final deliver-to party, and marketplace), thus strengthening CBP's enforcement posture.

Secondly, the volume of low-value shipments has increased dramatically in recent years. The statutory increase in the daily value limit for the administrative exemption from \$200 to \$800 in 2016, coupled with the boom in e-commerce, greatly increased the number of shipments qualifying for the exemption, resulted in new types of products becoming eligible for the exemption, and revived the trade community's interest in the exemption. In fiscal year (FY) 2015, prior to the passage of TFTEA, approximately 139 million shipments valued at \$200 or less were imported into the United States. In FY 2017, after the TFTEA increase to \$800 went into effect, low-value shipments numbered nearly 325 million. By the end of FY 2022, that number more than doubled to 685 million. Then in FY 2023, CBP cleared more than one billion low-value shipments. Currently, approximately 4 million shipments are released each day free of duty and tax pursuant to the administrative exemption. In fact, CBP estimates that over 90 percent of all shipments entering the United States are low-value shipments valued at \$800 or less.⁷⁶ The information requirements for these shipments are less rigorous than those required

⁷⁶ E-mail correspondence with the Office of Trade on Feb. 2, 2024.

for other entry types, *e.g.*, formal entries, and no longer provide sufficient detail for CBP to accurately identify the merchandise in the shipment and the parties involved in its sale and purchase. This overwhelming volume of low-value shipments and lack of actionable data collected pursuant to the current regulations inhibits CBP's ability to identify and interdict high-risk shipments that may contain illegal drugs such as illicit fentanyl, merchandise that poses a risk to public safety, counterfeits, or other contraband. The new enhanced entry process for low-value shipments proposed in this rulemaking would provide CBP with necessary information regarding the contents of shipments to accurately segment risk and determine eligibility for the administrative exemption in advance of a shipment's arrival in the United States. The receipt of advance electronic data would also reduce the burden for CBP officers who process these large volumes of shipments because better data would lead to more accurate targeting, which means CBP resources will be better focused on accurately identifying and interdicting violative shipments compared to today where the quality of the targeting is often impeded by the lack of information.

Last, both CBP and the trade community's technological capabilities have greatly advanced since 1995, and this proposed rule would adapt the regulations to current capabilities. As explained in previous sections, in the past, CBP cleared low-value shipments exclusively through a time-consuming and burdensome manual process, and staff at the ports of entry became unable to quickly and efficiently process the increasing volume of trade. Consequently, it was not unusual for clearance to take up to eight days. Over the last several years, CBP has collaborated with the trade community to obtain input regarding how to more accurately identify the nature, origin, and ultimate destination of low-value shipments. This effort served as the foundation for two pilot programs, the Section 321 Data Pilot and the Entry Type 86 Test, which

were implemented in 2019 to test CBP's capabilities to collect, and the trade's ability to provide, certain enhanced data through CBP-approved electronic systems.⁷⁷

As illustrated above, the existing regulations do not account for the complex supply chains surrounding e-commerce transactions, today's volume of trade, or recent technological advancements. Consequently, this environment is plagued with various challenges, including, but not limited to, illicit substances like fentanyl and other narcotics, counterfeits and other goods violative of intellectual property rights, and goods made with forced labor. CBP's enforcement efforts have brought to light violations of the right to make entry, mismanifesting of cargo, misclassification, misdelivery (*e.g.*, delivery of goods prior to release from CBP custody), undervaluation, and incorrectly executed powers of attorney. Of particular concern is the threat posed by illicit fentanyl, fentanyl analogues, as well as precursor and other chemicals used in illicit drug production that are smuggled into the United States by transnational criminal organizations. CBP uses a multi-faceted approach to prevent illegal drugs from entering the country, and one key facet is advance information and targeting. Advance electronic shipping information allows CBP to quickly identify, target, and deter the entry of dangerous illicit drugs in all operational environments. This rulemaking contributes to the effort to stop the flow of illegal drugs into the United States by expanding the collection of enhanced advance electronic data for low-value shipments.

2. *A succinct statement of the objectives of, and legal basis for, the proposed rule*

In the proposed rule, CBP seeks to refine and codify an electronic entry process for qualifying low-value shipments seeking entry into the United States. This proposed new process is termed the "enhanced entry process." In order to file an enhanced entry, CBP will require the submission of additional electronic data elements, such as a product URL or picture, in addition to the data currently required under the Entry Type 86 Test. This additional information will

⁷⁷ Section 321 Data Pilot, 84 FR 35405 (July 23, 2019); Test Concerning Entry of Section 321 Low-Valued Shipments Through Automated Commercial Environment (ACE), 84 FR 40079 (Aug. 13, 2019).

enable CBP to more efficiently target high-risk shipments. The existing process of clearing shipments off the manifest will also remain available to the trade with some modification; however, it will now be referred to as the “basic entry process.”

The legal authority for the administrative exemption is provided in 19 U.S.C. 1321(a)(2)(C). The legal authority to prescribe special rules for the declaration and entry of low-value merchandise is provided in 19 U.S.C. 1498(a)(1)(A). This administrative exemption is implemented in the CBP regulations at 19 CFR 10.151 and 10.153, and the entry rules for the entry of merchandise qualifying for this exemption are provided in 19 CFR parts 128, 143, and 145.

3. A description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply

As described in section 11.2 of the full analysis attached in the docket for this rule, the proposed rule does not directly regulate any one industry. Instead, it makes the enhanced entry process available to various actors who may wish to import low-value shipments. Enhanced entries may be filed by the owner or purchaser of the shipment, an ECO in possession of the shipment, or when appropriately designated by the owner, purchaser, or consignee of the shipment, a licensed customs broker. Generally, customs brokers will file the entries; however, it is unclear which entities will experience the incremental costs of the rule.

The threshold analysis presented in section 11.2.1 of the full analysis attached in the docket for this rule describes two possible alternate scenarios:

1. That brokers and ECOs experience costs directly and do not pass them on to their consumers; and
2. The total incremental cost of the rule is passed on to consignees (generally the final owner or purchaser) in the form of higher shipment costs.

No matter which category of entities bears the cost of this rule, this analysis demonstrates that a substantial number of small businesses may be affected by the proposed rule. Assuming

that brokers and ECOs fully bear the costs they incur (Scenario 1), we find that 67 percent of sampled brokers and ECOs qualify as small businesses.⁷⁸ Extrapolating from the sample to the full population of brokers suggests that approximately 274 brokers are small businesses. This analysis does not identify small businesses among the affected ECOs. Under the alternate assumption that consignees bear the cost of the rule (Scenario 2), any small entity in the United States has the potential to be affected by the rule as a consignee. Analysis of a sample of consignees for one day in 2023 demonstrates that 92 percent of businesses in the sample qualify as small.

4. A description of the projected reporting, record-keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record

This rule does not establish any new recordkeeping requirements outside of the additional data elements that will be sent to CBP. An enhanced entry may be filed for shipments which meet the requirements of 19 U.S.C. 1321(a)(2)(C) and 19 CFR 10.151, by transmitting to CBP, the individual bill of lading (house bill or equivalent) or other shipping document used to file or support entry, the data elements listed in previous sections for the basic entry process, and the following additional data:

1. Clearance tracing identification number (CTIN). “CTIN” means the individual bill of lading number or a unique identification number used to associate the merchandise on the individual bill of lading with the eligible imported merchandise for which entry is sought;

⁷⁸ This includes 71 percent of sampled small-volume brokers, 73 percent of all medium- and large-volume brokers, and none of the sampled major ECOs.

2. Country of shipment of the merchandise. “Country of shipment” means the country in which the goods were located when the shipment was created for exportation to the United States;

3. 10-digit classification for the merchandise in Chapters 1-97 (and any additional classification in Chapters 98-99, if applicable) of the Harmonized Tariff Schedule of the United States (HTSUS), unless the HTSUS waiver privilege has been obtained and asserted, and the merchandise is not subject to the requirements of other government agencies; and

a. HTSUS Waiver Privilege: Parties who will file enhanced entries may request from CBP a waiver of the requirement to transmit the 10-digit HTSUS classification unless the merchandise is subject to the requirements of other government agencies. Parties may obtain a waiver by demonstrating, at a minimum, the following:

i. The ability to properly classify merchandise to the 10-digit HTSUS classification;

ii. The ability to properly determine whether merchandise is subject to the requirements of other government agencies and the ability to properly segregate such shipments; and

iii. The ability to properly determine whether merchandise is otherwise precluded by law from eligibility for the administrative exemption under 19 U.S.C. 1321(a)(2)(C) and the ability to properly segregate such shipments.

4. One or more of the following:

a. The uniform resource locator (URL) to the marketplace’s product listing;

b. Product picture;

c. Product identifier; and/or

- d. Shipment x-ray or other security screening report number verifying completion of foreign security scanning of the shipment.

Conditional data elements for enhanced entry: In order for CBP to better assess the risks associated with low-value shipments, the enhanced entry process includes a set of conditional data elements which must be transmitted to CBP if the data elements are applicable to the merchandise in the shipment. (For example, if merchandise is subject to PGA requirements (for item 3 in the list below), then those documents must be submitted. If, however, PGA requirements are not applicable to the merchandise, then that data would not be provided.)

1. Seller name and address;
2. Purchaser name and address;
3. Any data or documents required by other government agencies;
4. Advertised retail product description; and
5. Marketplace name and website or phone number. "Marketplace" means the party that provides an internet (e.g., online, website, application ("app"), electronic mail) or telephonic (e.g., telephone, television, or catalog) means of offering products for sale. The marketplace may be a seller or a third party offering products on behalf of a seller.

The data elements required for an enhanced entry must be received by CBP on or before the deadline for receipt of advance cargo information, as specified below (varies by mode):

- **Vessel.** The filing must be received by CBP 24 hours before the cargo is laden aboard the vessel at the foreign port. 19 CFR 4.7 and 4.7a.
- **Air.** The filing must be received by CBP either: (1) no later than the time of the departure of the aircraft for the United States, in the case of aircraft that depart for the United States from any foreign port or place in North America, including locations in Mexico, Central America, South America (from north of the Equator only), the Caribbean, and Bermuda; or (2) no later than four hours prior to the arrival of the aircraft in the United States, in the case of aircraft that depart for the

United States from any foreign area other than those specified in 19 CFR

122.48a(b)(1). 19 CFR 122.48a(b).

- **Rail.** The filing must be received by CBP no later than two hours prior to the cargo reaching the first port of arrival in the United States. 19 CFR 123.91.
- **Truck.** The filing must be received by CBP no later than either 30 minutes or one hour prior to the carrier's reaching the first port of arrival in the United States, or such lesser time as authorized, based upon the CBP-approved system employed to present the information. 19 CFR 123.92.

5. An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule

This rule does not duplicate, overlap, or conflict with any other Federal rule. CBP is considering an NPRM that would make goods subject to trade actions ineligible for the administrative exemption. If that NPRM is published and finalized, that rule would supplement this rule.

6. A description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed rule on small entities

There are no significant alternatives that accomplish the stated objectives of the proposed rule. As the majority of the regulated parties are small businesses, this rule would not be effective if CBP limited the rule to other than small businesses. Further, we note that use of the enhanced entry process established by this rule is optional. If a small business does not wish to provide the information required under the enhanced entry process, it may use the basic entry process, which is nearly identical to the release from manifest process used historically, and incur no costs as a result of this rule.

E. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. The collection of information contained in this proposed rule, will be submitted to OMB for review under section 3507(d) of the Paperwork Reduction Act (PRA). The public can direct comments to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Customs and Border Protection. Such comments can be submitted in the regulatory docket for this proposed rule.

This rule, if finalized, would formalize the Entry Type 86 Test and alter the information collection under OMB control number 1651-0024 (Entry/Immediate Delivery Application and Simplified Entry). This NPRM announces the data elements required for enhanced entry submissions. Enhanced entry submissions, like entry type 86 entries, are submitted for entries at the house bill level.⁷⁹ CBP does not anticipate a change in the number of annual submissions (621,828,643) or number of annual respondents (535) compared to those caused by the Entry Type 86 Test, but will result in an increase to the time per response to submit a master bill an enhanced submission compared to the entry type 86 submission. The collection will be adjusted to reflect the additional 2 minutes per master bill and the increase in total annual burden hours due to the change. The current entry type 86 entries will be converted to the new enhanced entry upon the finalization of this proposed rulemaking and formal OMB approval which will keep the number of submissions equal to the Entry Type 86 Test. The new estimated annual burden for this information collection following OMB approval is 3,843,763 hours.

Upon finalization of this proposed rule and OMB approval, the information collection under OMB control number 1651-0024 will be revised to reflect the increased burden hours as follows:

⁷⁹ The typical master bill contains approximately 6,000 house bills. Much of the information on the house bills is identical and the submission is largely automated. This results in a higher number of submissions with a lower time burden per submission for entry type 86 and enhanced entry submissions.

Paper Only Entry/Immediate Delivery Form 3461:

Estimated Number of Respondents: 1,669

Estimated Number of Total Annual Responses: 33,923

Estimated Time per Response: 15 minutes

Estimated Total Annual Burden Hours: 8,481

ACE Cargo Release Electronic Submission:

Form 3461 and 3461ALT Excluding Enhanced Entry:

Estimated Number of Respondents: 6,580

Estimated Number of Total Annual Responses: 22,970,239

Estimated Time per Response: 10 minutes

Estimated Total Annual Burden Hours: 3,828,373

Enhanced Entry:

Estimated Number of Respondents: 535

Estimated Number of Total Annual Responses: 621,828,643

Estimated Time per Response: 0.0007 minutes

Estimated Total Annual Burden Hours: 6,909

F. National Environmental Policy Act

DHS and its components analyze actions to determine whether the National Environmental Policy Act of 1969 (“NEPA”), 42 U.S.C. 4321 et seq., applies to these actions and, if so, what level of NEPA review is required. 42 U.S.C. 4336. DHS’s Directive 023-01, Revision 01 and Instruction Manual 023-01-001-01, Revision 01 (“Instruction Manual 023-01-001-01”) establish the procedures that DHS uses to comply with NEPA and the Council on Environmental Quality (“CEQ”) regulations for implementing NEPA, 40 CFR parts 1500 through 1508.⁸⁰

⁸⁰ CBP is aware of the November 12, 2024 decision in *Marin Audubon Society v. Federal Aviation Administration*, No. 23-1067 (D.C. Cir. Nov. 12, 2024). To the extent that a court may conclude that CEQ regulations implementing

Federal agencies may establish categorical exclusions for categories of actions they determine normally do not significantly affect the quality of the human environment and, therefore, do not require the preparation of an Environmental Assessment or Environmental Impact Statement. 42 U.S.C. 4336e(1); *see also* 40 CFR 1501.4, 1507.3(c)(8), 1508.1(e). DHS has established categorical exclusions, which are listed in appendix A of its Instruction Manual 023-01-001-01. Under DHS's NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) the entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.

DHS has analyzed this action under Directive 023-01 and Instruction Manual 023-01-001-01. DHS has made a determination that this rulemaking action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. First, this proposed rule clearly fits within the Categorical Exclusions A3(a) and A3(d) of DHS's Instruction Manual 023-01-001-01, Appendix A, for the promulgation of rules of a "strictly administrative or procedural nature" and rules that "interpret or amend an existing regulation without changing its environmental effect," respectively. The proposed rule would create a new process for entering low-value shipments, allowing CBP to target high-risk shipments more effectively. The proposed rule would also revise the current process for entering low-value shipments to require additional data elements that would assist CBP in verifying eligibility for duty- and tax-free entry of low-value shipments and bona-fide gift. Second, this NPRM is not part of a larger action. Third, this NPRM presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, a more detailed NEPA

NEPA are not judicially enforceable or binding on this agency action, CBP has nonetheless elected to follow those CEQ regulations, in addition to DHS's Directive and Instruction Manual, to meet the agency's obligations under NEPA, 42 U.S.C. 4321 et seq.

review is not necessary. DHS seeks any comments or information that may lead to the discovery of any significant environmental effects from this NPRM.

Signing Authority

In accordance with Treasury Order 100-20, the Secretary of the Treasury delegated to the Secretary of Homeland Security the authority related to the customs revenue functions vested in the Secretary of the Treasury as set forth in 6 U.S.C. 212 and 215, subject to certain exceptions. This regulation is being issued in accordance with DHS Directive 07010.3, Revision 03.2, which delegates to the Commissioner of CBP the authority to prescribe and approve/sign regulations related to customs revenue functions.

Pete Flores, Senior Official Performing the Duties of the Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign this document to the Director (or Acting Director, if applicable) of the Regulations and Disclosure Law Division of CBP, for purposes of publication in the *Federal Register*.

List of Subjects

19 CFR Part 10

Bonds, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 101

Harbors, Organization and functions (Government agencies), Seals and insignia, Vessels.

19 CFR Part 128

Administrative practice and procedure, Freight, Reporting and recordkeeping requirements.

19 CFR Part 143

Reporting and recordkeeping requirements.

19 CFR Part 145

Exports, Lotteries, Postal Service, Reporting and recordkeeping requirements.

Proposed Amendments to the CBP Regulations

For the reasons stated above in the preamble, CBP proposes to amend 19 CFR parts 10, 101, 128, 143, and 145 as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 4513.

* * * * *

2. Amend the undesignated center heading preceding § 10.151 to read as follows:

IMPORTATIONS NOT OVER \$800 AND BONA-FIDE GIFTS

3. Revise § 10.151 to read as follows:

§ 10.151 Importations not over \$800.

Subject to the conditions in § 10.153, the port director may pass free of duty and tax any shipment of merchandise, as defined in § 101.1 of this chapter, imported by one person on one day having a fair retail value in the country of shipment not exceeding \$800. When multiple shipments are imported by one person on one day under this section and the aggregate fair retail value of those shipments exceeds \$800 in the country of shipment, then all such shipments imported on that day by that person become ineligible for the privilege of passing free of duty and tax under this section. This privilege will also be denied if a port director has reason to believe that a shipment is one of several lots covered by a single order or contract sent separately to secure free entry or avoid compliance with any pertinent law or regulation. For purposes of this section, the person whose shipment may be granted the privilege of passing free of duty and tax under 19 U.S.C. 1321(a)(2)(C) is the owner or purchaser of the merchandise imported on one day. Merchandise for which this privilege is claimed must be entered under informal entry procedures (see § 143.23(j), and §§ 128.24, 145.31, 148.12, and 148.62 of this chapter) by a party authorized to make entry under § 143.26(b) of this chapter.

4. Revise § 10.152 to read as follows:

§ 10.152 Bona-fide gifts.

Subject to the conditions in § 10.153, the port director may pass free of duty and tax any article sent as a bona-fide gift from a person in a foreign country to a person in the United States, provided that the aggregate fair retail value in the country of shipment of such articles received by one person on one day does not exceed \$100 or, in the case of articles sent from a person in the Virgin Islands, Guam, and American Samoa, \$200. Articles for which this privilege is claimed must be entered under informal entry procedures (see § 143.23(j) and § 145.32 of this chapter). An article is “sent” for purposes of this section if it is conveyed in any manner other than on the person or in the accompanied or unaccompanied baggage of the donor or donee.

5. Amend § 10.153 by:

a. In the introductory text, removing the word “Customs” and adding in its place the term “CBP”;

b. In paragraphs (a) and (d) introductory text, adding a hyphen between the words “bona” and “fide”; and

c. Adding paragraph (i).

The addition reads as follows:

§ 10.153 Conditions for exemption.

* * * * *

(i) The exemption provided for in § 10.151 is not to be allowed with respect to imported merchandise subject to any antidumping or countervailing duty determination, instruction, or order issued by the Department of Commerce; or any other merchandise otherwise precluded by law from eligibility.

PART 101—GENERAL PROVISIONS

6. The general authority citation for part 101 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 101, *et. seq.*; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

* * * * *

§ 101.1 [Amended]

7. Amend § 101.1, in the definition of “Shipment”, by removing the words “the bill of lading” and adding in their place the words “an individual bill of lading (house bill or equivalent)”.

PART 128—EXPRESS CONSIGNMENTS

8. The authority citation for part 128 continues to read as follows:

Authority: 19 U.S.C. 58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

9. Amend § 128.21 by:

a. Revising paragraph (a)(4)(ii); and

b. In paragraph (b), removing the word “Customs” and adding in its place the term “CBP”.

The revision reads as follows:

§ 128.21 Manifest requirements.

(a) * * *

(4) * * *

(ii) If the merchandise is eligible for, and is entered under, the informal entry procedures as provided in § 128.24, except for merchandise eligible to pass free of duty and tax as provided in § 128.24(e) or § 128.24(f) and entered under § 143.23(k) of this chapter.

* * * * *

10. Amend § 128.24 by revising paragraphs (d) and (e) and adding paragraph (f) to read as follows:

§ 128.24 Informal entry procedures.

* * * * *

(d) *Entry summary.* An entry summary (CBP Form 7501, or its electronic equivalent) must be presented in proper form, and estimated duties deposited within 10 days of the release of the merchandise under either the regular or alternative procedure described in this section, unless the shipment passes free of duty and tax under paragraph (e) or (f) of this section.

(e) *Shipments valued at \$800 or less.* Shipments valued at \$800 or less meeting the requirements of § 10.151 of this chapter may be passed free of duty and tax if entered under the procedures set forth in § 143.23(j) of this chapter by a party eligible to file entry under § 143.26(b) of this chapter.

(f) *Bona-fide gifts.* Shipments valued at \$100 or less (\$200, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa) meeting the requirements of § 10.152 of this chapter may be passed free of duty and tax if entered under the procedures set forth in § 143.23(k) of this chapter. Such shipments are not eligible for the procedures set forth in § 143.23(l) of this chapter.

PART 143—SPECIAL ENTRY PROCEDURES

11. The authority citation for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1321, 1414, 1481, 1484, 1498, 1624, 1641.

12. Amend § 143.23 by revising paragraphs (j) and (k) and adding paragraphs (l) and (m) to read as follows:

§ 143.23 Form of entry.

* * * * *

(j) *Shipments not over \$800 and bona-fide gifts.* Except in the case of personal written or oral declarations (see §§ 148.12, 148.13, and 148.62 of this chapter), a shipment of merchandise eligible for informal entry under 19 U.S.C. 1498 and meeting the requirements of § 10.151 or § 10.152 of this chapter may be entered by providing the individual bill of lading (house bill or

equivalent), or other shipping document used to file or support entry, and by meeting the requirements under paragraph (k) or (l) of this section.

(1) *Requirements of other government agencies.* Shipments of merchandise may be subject to other legal requirements, including the requirements of other Federal, State, or local agencies, as applicable. Merchandise regulated by other Federal agencies may not be entered under paragraph (k) of this section, but may be entered under paragraph (l) of this section.

(2) *Mail importations.* Mail importations pursuant to § 145.31 may not be entered under paragraph (k) of this section, but may be entered under paragraph (l) of this section.

(3) *Bona-fide gifts.* Bona-fide gifts claiming the exemption in § 10.152 of this chapter must be entered under paragraph (k) of this section.

(k) *Basic entry process.* Shipments of merchandise meeting the requirements of 19 U.S.C. 1321(a)(2) and § 10.151 or § 10.152 of this chapter may be entered pursuant to paragraph (j) of this section by providing the individual bill of lading (house bill or equivalent) and the following information either electronically through a CBP-authorized electronic data interchange (EDI) system or in paper format:

- (1) Country of origin of the merchandise;
- (2) Shipper name, address, and country;
- (3) Name and address of the person claiming the exemption from duty and tax under § 10.151 or § 10.152 of this chapter;
- (4) Specific description of the merchandise;
- (5) Manifested quantity of the merchandise;
- (6) Shipment weight;
- (7) Fair retail value in the country of shipment in U.S. dollars (for conversion of foreign currency, see subpart C, part 159 of this chapter); and

(8) Name and address of the final deliver-to party, meaning the final party in the United States to whom the merchandise is to be delivered, if distinct from the party identified in paragraph (k)(3) of this section.

(l) *Enhanced entry process.* Shipments of merchandise meeting the requirements of 19 U.S.C. 1321(a)(2)(C) and § 10.151 of this chapter may be entered pursuant to paragraph (j) of this section by transmitting to CBP, through a CBP-authorized EDI system, the individual bill of lading (house bill or equivalent) or other shipping document used to file or support entry, and the information required in paragraph (k) of this section and paragraphs (l)(1) and (2) of this section. All required documentation and information must be received by CBP on or before the deadline for receipt of cargo information (see §§ 4.7 and 4.7a (vessel), 122.48a(b) (air), 123.91 (rail), and 123.92 (truck) of this chapter), except for mail shipments (see § 145.31 of this chapter).

(1) For all shipments, the following must be transmitted:

(i) Clearance tracing identification number (CTIN). “CTIN” means the individual bill of lading number or other unique identification number used to associate the merchandise on the individual bill of lading with the eligible imported merchandise for which entry is sought;

(ii) Country of shipment of the merchandise. For purposes of this paragraph (l), “country of shipment” means the country where the goods were located when the shipment was created for exportation to the United States;

(iii) 10-digit classification of the merchandise in chapters 1-97 (and additionally in chapters 98-99, if applicable) of the Harmonized Tariff Schedule of the United States (HTSUS), unless the HTSUS waiver privilege has been obtained pursuant to paragraph (m) of this section and asserted for the entry, and the merchandise is not subject to requirements of other government agencies; and

(iv) One or more of the following:

(A) The uniform resource locator (URL) to the marketplace’s product listing;

(B) Product picture;

(C) Product identifier; and/or

(D) Shipment x-ray or other security screening report number verifying completion of foreign security scanning of the shipment.

(2) For all shipments, the following information must be transmitted, if applicable:

(i) Seller name and address. For purposes of this paragraph (1), “seller” means the party that made, or offered or contracted to make, a sale of the merchandise;

(ii) Purchaser name and address. For purposes of this paragraph (1), “purchaser” means the last known party to whom the goods are sold or the party to whom the goods are contracted to be sold at the time of importation;

(iii) Any data or documents required by other government agencies;

(iv) Advertised retail product description; and

(v) Marketplace name and website or phone number. For purposes of this paragraph (1), “marketplace” means the party that provides an internet (e.g., online, website, application (“app”), electronic mail) or telephonic (e.g., telephone, television, or catalog) means of offering products for sale. The marketplace may be a seller or a third party offering products on behalf of a seller.

(m) *Application for HTSUS waiver privilege.* Under the provisions of this paragraph (m), a party may request a waiver of the requirement to transmit the 10-digit HTSUS classification of the merchandise pursuant to paragraph (1)(1)(iii) of this section. The HTSUS waiver privilege cannot be used when merchandise is subject to the requirements of other government agencies under paragraph (j)(1) of this section or where otherwise required by law. If subject to such requirements, the 10-digit HTSUS classification(s) must be submitted for all the merchandise in the shipment.

(1) *Who may apply.* Any party who is eligible to file entry under paragraph (1) of this section may apply for the HTSUS waiver privilege (see § 143.26(b) of this chapter regarding parties who may make such entries).

(2) *Contents of application.* An applicant for the HTSUS waiver privilege must submit an application via e-mail to the Director, Cargo Security and Controls Division, Office of Field Operations, at ecommerce@cbp.dhs.gov. The application must include the following:

(i) Name and address of applicant, and an e-mail address to be used for CBP correspondence regarding the application.

(ii) Information demonstrating the applicant has in place internal controls and procedures regarding, at a minimum, the following:

(A) The ability to properly classify merchandise under the HTSUS at the 10-digit classification;

(B) The ability to properly determine whether merchandise is subject to the requirements of other government agencies and the ability to properly segregate such shipments; and

(C) The ability to properly determine whether merchandise is otherwise precluded by law from eligibility for the administrative exemption under 19 U.S.C. 1321(a)(2)(C) and the ability to properly segregate such shipments.

(iii) The applicant must state whether a previous application for an HTSUS waiver privilege was denied, or if a previous approval of such an application was revoked.

(3) *Action on application—(i) CBP review.* CBP will review and verify all information submitted with the application. For this purpose, CBP may request additional information (including additional documents) and/or explanations of any of the information provided. The verification process may include on-site visits and demonstrations of the applicant's procedures. Based on its findings from the review and verification process, CBP will approve or deny the application.

(ii) *Notice to applicant.* CBP will notify the applicant, via e-mail to the e-mail address provided with the application, within 60 days of receipt of the application of its decision to approve or deny the application, or of CBP's inability to approve, deny, or act on the application and the reason therefor.

(iii) *Approval.* The approval of an application will be effective as of the date of CBP's notification of approval, unless CBP's notification provides a different effective date.

(iv) *Denial.* If an application is denied, the applicant will be notified specifying the reason therefor. A denial may be appealed in the manner prescribed in paragraph (m)(3)(vi) of this section. The applicant may not reapply for the HTSUS waiver privilege until the reason for the denial is resolved.

(v) *Revocation.* CBP may propose to revoke its approval of an application for good cause (such as, noncompliance with any applicable customs laws and/or regulations, failure to maintain internal controls at the standards set by CBP in paragraph (m)(2)(ii) of this section, or failure to participate in periodic compliance reviews conducted by CBP). In the case of a proposed revocation, CBP will provide notice, via e-mail to the e-mail address provided with the application, of the proposed revocation of the approval. The notice will specify the reasons for CBP's proposed action and the procedures for challenging CBP's proposed revocation, as described in paragraph (m)(3)(vi) of this section. The revocation will take effect 30 days after the date of the proposed revocation unless timely challenged under paragraph (m)(3)(vi) of this section. If timely challenged, the revocation will take effect after completion of the challenge procedures in paragraph (m)(3)(vi) of this section unless the challenge is successful.

(vi) *Appeal of denial or challenge to proposed revocation.* An appeal of a denied application, or challenge to the proposed revocation of an approved application, may be made by e-mail to the Executive Director, Trade Policy and Programs, Office of Trade, CBP Headquarters, at ecommerce@cbp.dhs.gov, and must be received within 30 days of the date of denial or proposed revocation. The 30-day period for appeal or challenge may be extended for good cause, upon written request by the applicant or privilege holder. The extension request must be made by e-mail and received by the Executive Director, Trade Policy and Programs, Office of Trade, CBP Headquarters, at ecommerce@cbp.dhs.gov, within the 30-day period. The

denial of an application or the revocation of a waiver, does not preclude a party from reapplying for the privilege in the future.

13. Amend § 143.26 by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 143.26 Party who may make informal entry of merchandise.

* * * * *

(b) *Shipments valued at \$800 or less.* Except for merchandise subject to paragraph (c) of this section, a shipment of merchandise valued at \$800 or less which qualifies for informal entry under 19 U.S.C. 1498 and meets the requirements in 19 U.S.C. 1321(a)(2) (see §§ 10.151, 10.152, 10.153, 143.23(k), 145.31, 145.32, 148.51, and 148.64 of this chapter) may be entered, using reasonable care, by the owner, purchaser, or consignee of the shipment or, when appropriately designated by one of these persons, a customs broker licensed under 19 U.S.C. 1641.

(c) *Exception for the enhanced entry process.* A shipment of merchandise valued at \$800 or less, which qualifies for informal entry under 19 U.S.C. 1498 and the administrative exemption under 19 U.S.C. 1321(a)(2)(C), may be entered under § 143.23(l), using reasonable care, by the owner or purchaser of the shipment, an express consignment operator or carrier in possession of the shipment (see § 128.1(a) of this chapter), or when appropriately designated by the owner, purchaser, or consignee of the shipment, a customs broker licensed under 19 U.S.C. 1641 (see part 141, subpart C). When a party eligible to file the entry transmits the entry information required under §§ 143.23(l)(1)(iv)(A) through (D) and 143.23(l)(2)(iv) through (v) of this part, and receives any of that information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the transmitting party acquired such information, and whether and how the transmitting party is able to verify this information. When the transmitting party is not reasonably able to verify such information, CBP

will permit the party to transmit the information on the basis of what the party reasonably believes to be true.

PART 145—MAIL IMPORTATIONS

14. The authority citation for part 145 and the specific authority citation for §§ 145.31 and 145.32 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i)), Harmonized Tariff Schedule of the United States, 1624.

* * * * *

Section 145.31 also issued under 19 U.S.C. 1321;

Section 145.32 also issued under 19 U.S.C. 1321, 1498;

* * * * *

15. Revise § 145.31 to read as follows:

§ 145.31 Importations not over \$800 in value.

The port director may pass free of duty and tax, without preparing an entry as provided for in § 145.12, packages containing merchandise having an aggregate fair retail value in the country of shipment of not over \$800, subject to the requirements set forth in §§ 10.151 and 10.153 of this chapter. Such merchandise may alternatively be entered under § 143.23(l) of this chapter, in which case all required information must be transmitted to CBP no later than the date the merchandise departs from the country of posting.

§ 145.32 [Amended]

16. Amend § 145.32 by removing the word “shall” and adding in its place the word “may”.

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