

(f) Customs services for foreign trade zones or subzones

For purposes of this section, customs services provided in connection with, or with respect to, any foreign trade zone or subzone that is located at, or in the vicinity of, any airport, seaport, or other facility described in subsection (a) of this section or designated under subsection (c) of this section shall be considered to be customs services provided at such airport, seaport, or other facility.

(Pub. L. 98-573, title II, §236, Oct. 30, 1984, 98 Stat. 2992; Pub. L. 99-190, §142, Dec. 19, 1985, 99 Stat. 1324; Pub. L. 99-272, title XIII, §13032, Apr. 7, 1986, 100 Stat. 310; Pub. L. 100-418, title I, §1905, Aug. 23, 1988, 102 Stat. 1313; Pub. L. 101-207, §3(c)(2), (f)(1), Dec. 7, 1989, 103 Stat. 1834, 1835.)

AMENDMENTS

1989—Pub. L. 101-207, §3(f)(1)(C), inserted “and other facilities” after “airports” in section catchline.

Subsecs. (a)(3), (b). Pub. L. 101-207, §3(f)(1)(A), inserted “, seaport, or other facility” after “airport” wherever appearing.

Subsec. (c). Pub. L. 101-207, §3(f)(1)(A), (B), inserted “, seaports, and other facilities” after “airports” in introductory provisions and “, seaport, or other facility” after “airport” wherever appearing.

Subsec. (e). Pub. L. 101-207, §3(f)(1)(A), inserted “, seaport, or other facility” after “airport” wherever appearing.

Subsec. (f). Pub. L. 101-207, §3(c)(2), (f)(1)(A), added subsec. (f) and inserted “, seaport, or other facility” after “airport” in two places.

1988—Subsec. (a)(2), (3). Pub. L. 100-418, §1905(1)–(3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c). Pub. L. 100-418, §1905(4), struck out “20” before “airports”.

1986—Subsec. (c). Pub. L. 99-272, §13032(1), made amendment identical to Pub. L. 99-190, substituting “20 airports” for “4 airports”.

Subsec. (e). Pub. L. 99-272, §13032(2), substituted last two sentences for former last sentence which read as follows: “The funds in such account shall only be available, as provided by appropriation Acts, for expenditures relating to the provision of customs services at such airport (including expenditures for the salaries and expenses of individuals employed to provide such services).”

1985—Subsec. (c). Pub. L. 99-190 substituted “20 airports” for “4 airports”.

EFFECTIVE DATE

Section effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as an Effective Date of 1984 Amendment note under section 1304 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 58b-1. Expenses from fees collected

Beginning in fiscal year 1998 and thereafter, such sums as may be necessary for expenses for the provision of Customs services at certain

small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary pursuant to section 58b of this title for each of these airports or other facilities when authorized by law and designated by the Secretary, and to remain available until expended.

(Pub. L. 105-61, title I, Oct. 10, 1997, 111 Stat. 1279.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 58c. Fees for certain customs services**(a) Schedule of fees**

In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect the following fees for the provision of customs services in connection with the following:

(1) For the arrival of a commercial vessel of 100 net tons or more, \$397.

(2) For the arrival of a commercial truck, \$5.

(3) For the arrival of each railroad car carrying passengers or commercial freight, \$7.50.

(4) For all arrivals made during a calendar year by a private vessel or private aircraft, \$25.

(5)(A) Subject to subparagraph (B), for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)(i) of this section), \$5.

(B) For the arrival of each passenger aboard a commercial vessel from a place referred to in subsection (b)(1)(A)(i) of this section, \$1.75.

(6) For each item of dutiable mail for which a document is prepared by a customs officer, \$5.

(7) For each customs broker permit held by an individual, partnership, association, or corporate customs broker, \$125 per year.

(8) For the arrival of a barge or other bulk carrier from Canada or Mexico, \$100.

(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount equal to 0.21 percent ad valorem, unless adjusted under subparagraph (B).

(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) to an ad valorem rate (but not to a rate of more than 0.21 percent nor less than 0.15 percent) and the amounts specified in subsection (b)(8)(A)(i) (but not to more than \$485 nor less than \$21) to rates and amounts which would, if charged, offset the salaries and expenses that will likely be incurred by the Cus-

toms Service in the processing of such entries and releases during the fiscal year in which such costs are incurred.

(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under subsection (f) of this section with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury—

(I) not later than 45 days after the date of the enactment of the Act providing full-year appropriations for the Customs Service for that fiscal year, publishes in the Federal Register a notice of intent to adjust the fee under this paragraph and the amount of such adjustment;

(II) provides a period of not less than 30 days following publication of the notice described in subclause (I) for public comment and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the proposed adjustment and the methodology used to determine such adjustment;

(III) upon the expiration of the period provided under subclause (II), notifies such committees in writing regarding the final determination to adjust the fee, the amount of such adjustment, and the methodology used to determine such adjustment; and

(IV) upon the expiration of the 15-day period following the written notification described in subclause (III), submits for publication in the Federal Register notice of the final determination regarding the adjustment of the fee.

(iv) The 15-day period referred to in clause (iii)(IV) shall be computed by excluding—

(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

(v) An adjustment made under this subparagraph shall become effective with respect to formal entries and releases made on or after the 15th calendar day after the date of publication of the notice described in clause (iii)(IV) and shall remain in effect until adjusted under this subparagraph.

(C) If for any fiscal year, the Secretary of the Treasury determines not to make an adjustment under subparagraph (B), the Secretary shall, within the time prescribed under subparagraph (B)(iii)(I), submit a written report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives detailing the reasons for maintaining the current fee and the methodology used for computing such fee.

(D) Any fee charged under this paragraph, whether or not adjusted under subparagraph

(B), is subject to the limitations in subsection (b)(8)(A) of this section.

(10) For the processing of merchandise that is informally entered or released, other than at—

(A) a centralized hub facility,

(B) an express consignment carrier facility, or

(C) a small airport or other facility to which section 58b of this title applies, if more than 25,000 informal entries were cleared through such airport or facility during the fiscal year preceding such entry or release,

a fee of—

(i) \$2 if the entry or release is automated and not prepared by customs personnel;

(ii) \$6 if the entry or release is manual and not prepared by customs personnel; or

(iii) \$9 if the entry or release, whether automated or manual, is prepared by customs personnel.

For provisions relating to the informal entry or release of merchandise at facilities referred to in subparagraphs (A), (B), and (C), see subsection (b)(9) of this section.

(b) Limitations on fees

(1)(A) Except as provided in subsection (a)(5)(B) of this section, no fee may be charged under subsection (a) of this section for customs services provided in connection with—

(i) the arrival of any passenger whose journey—

(I) originated in a territory or possession of the United States; or

(II) originated in the United States and was limited to territories and possessions of the United States;

(ii) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates;

(iii) the arrival of a ferry, except for a ferry whose operations begin on or after August 1, 1999, and that operates south of 27 degrees latitude and east of 89 degrees longitude; or

(iv) the arrival of any passenger on board a commercial vessel traveling only between ports which are within the customs territory of the United States.

(B) The exemption provided for in subparagraph (A) shall not apply in the case of the arrival of any passenger on board a commercial vessel whose journey originates and terminates at the same place in the United States if there are no intervening stops.

(C) The exemption provided for in subparagraph (A)(i) shall not apply to fiscal years 1994, 1995, 1996, and 1997.

(2) No fee may be charged under subsection (a)(2) of this section for the arrival of a commercial truck during any calendar year after a total of \$100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such commercial truck during such calendar year.

(3) No fee may be charged under subsection (a)(3) of this section for the arrival of a railroad car whether passenger or freight during any calendar year after a total of \$100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such passenger or freight rail car during such calendar year.

(4)(A) No fee may be charged under subsection (a)(5) of this section with respect to the arrival of any passenger—

(i) who is in transit to a destination outside the customs territory of the United States, and

(ii) for whom customs inspectional services are not provided.

(B) In the case of a commercial vessel making a single voyage involving 2 or more United States ports with respect to which the passengers would otherwise be charged a fee pursuant to subsection (a)(5) of this section, such fee shall be charged only 1 time for each passenger.

(5) No fee may be charged under subsection (a)(1) of this section for the arrival of—

(A) a vessel during a calendar year after a total of \$5,955 in fees charged under paragraph (1) or (8) of subsection (a) of this section has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such vessel during such calendar year,

(B) any vessel which, at the time of the arrival, is being used solely as a tugboat, or

(C) any barge or other bulk carrier from Canada or Mexico.

(6) No fee may be charged under subsection (a)(8) of this section for the arrival of a barge or other bulk carrier during a calendar year after a total of \$1,500 in fees charged under paragraph (1) or (8) of subsection (a) of this section has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such barge or other bulk carrier during such calendar year.

(7) No fee may be charged under paragraph (2), (3), or (4) of subsection (a) of this section for the arrival of any—

(A) commercial truck,

(B) railroad car, or

(C) private vessel,

that is being transported, at the time of the arrival, by any vessel that is not a ferry.

(8)(A)(i) Subject to clause (ii), the fee charged under subsection (a)(9) of this section for the formal entry or release of merchandise may not exceed \$485 or be less than \$25, unless adjusted pursuant to subsection (a)(9)(B) of this section.

(ii) A surcharge of \$3 shall be added to the fee determined after application of clause (i) for any manual entry or release of merchandise.

(B) No fee may be charged under subsection (a)(9) or (10) of this section for the processing of any article that is—

(i) provided for under any item in chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,

(ii) a product of an insular possession of the United States, or

(iii) a product of any country listed in subdivision (c)(ii)(B) or (c)(v) of general note 3 to such Schedule.

(C) For purposes of applying subsection (a)(9) or (10) of this section—

(i) expenses incurred by the Secretary of the Treasury in the processing of merchandise do not include costs incurred in—

(I) air passenger processing,

(II) export control, or

(III) international affairs, and

(ii) any reference to a manual formal or informal entry or release includes any entry or release filed by a broker or importer that requires the inputting of cargo selectivity data into the Automated Commercial System by customs personnel, except when—

(I) the broker or importer is certified as an ABI cargo release filer under the Automated Commercial System at any port within the United States, or

(II) the entry or release is filed at ports prior to the full implementation of the cargo selectivity data system by the Customs Service at such ports.

(D) The fee charged under subsection (a)(9) or (10) of this section with respect to the processing of merchandise shall—

(i) be paid by the importer of record of the merchandise;

(ii) except as otherwise provided in this paragraph, be based on the value of the merchandise as determined under section 1401a of this title;

(iii) in the case of merchandise classified under subheading 9802.00.60 of the Harmonized Tariff Schedule of the United States, be applied to the value of the foreign repairs or alterations to the merchandise;

(iv) in the case of merchandise classified under heading 9802.00.80 of such Schedule, be applied to the full value of the merchandise, less the cost or value of the component United States products;

(v) in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, be applied only to the value of material used to make the container for such merchandise, if such merchandise is subject to entry and the container is of a kind normally used for packing such merchandise; and

(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).

With respect to merchandise that is classified under subheading 9802.00.60 or heading 9802.00.80 of such Schedule and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a)(9) or (10) of this section on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.

(E) For purposes of subsection (a)(9) and (10) of this section, merchandise is entered or released, as the case may be, if the merchandise is—

(i) permitted or released under section 1448(b) of this title,

(ii) entered or released from customs custody under section 1484(a)(1)(A) of this title, or
 (iii) withdrawn from warehouse for consumption.

(9)(A) With respect to the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is \$2,000 or less (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 1498 of this title), except such items entered for transportation and exportation or immediate exportation at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following reimbursements and payments are required:

(i) In the case of a small airport or other facility—

(I) the reimbursement which such facility is required to make during the fiscal year under section 9701 of title 31 or section 58b of this title; and

(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section for such fiscal year, in an amount equal to the reimbursement under subclause (I).

(ii) Notwithstanding subsection (e)(6) of this section and subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility—

(I) \$.66 per individual airway bill or bill of lading; and

(II) if the merchandise is formally entered, the fee provided for in subsection (a)(9) of this section, if applicable.

(B)(i) Beginning in fiscal year 2004, the Secretary of the Treasury may adjust (not more than once per fiscal year) the amount described in subparagraph (A)(ii) to an amount that is not less than \$.35 and not more than \$1.00 per individual airway bill or bill of lading. The Secretary shall provide notice in the Federal Register of a proposed adjustment under the preceding sentence and the reasons therefor and shall allow for public comment on the proposed adjustment.

(ii) Notwithstanding section 1451 of this title, the payment required by subparagraph (A)(ii)(I) or (II) shall be the only payment required for reimbursement of the Customs Service in connection with the processing of an individual airway bill or bill of lading in accordance with such subparagraph and for providing services at express consignment carrier facilities or centralized hub facilities, except that the Customs Service may require such facilities to cover expenses of the Customs Service for adequate office space, equipment, furnishings, supplies, and security.

(iii)(I) The payment required by subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid on a quarterly basis by the carrier using the facility to the Customs Service in accordance with regulations prescribed by the Secretary of the Treasury.

(II) 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii)

of this subparagraph shall, in accordance with section 1524 of this title, be deposited in the Customs User Fee Account and shall be used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to express consignment carrier facilities or centralized hub facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of customs services to express consignment carrier facilities or centralized hub facilities.

(III) Notwithstanding section 1524 of this title, the remaining 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section.

(C) For purposes of this paragraph:

(i) The terms “centralized hub facility” and “express consignment carrier facility” have the respective meanings that are applied to such terms in part 128 of chapter I of title 19, Code of Federal Regulations. Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).

(ii) The term “small airport or other facility” means any airport or facility to which section 58b of this title applies, if more than 25,000 informal entries were cleared through such airport or facility during the preceding fiscal year.

(10)(A) The fee charged under subsection (a)(9) or (10) with respect to goods of Canadian origin (as determined under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) when the United States-Canada Free-Trade Agreement is in force shall be in accordance with article 403 of that Agreement.

(B) For goods qualifying under the rules of origin set out in section 3332 of this title, the fee under subsection (a)(9) or (10)—

(i) may not be charged with respect to goods that qualify to be marked as goods of Canada pursuant to Annex 311 of the North American Free Trade Agreement, for such time as Canada is a NAFTA country, as defined in section 3301(4) of this title; and

(ii) may not be increased after December 31, 1993, and may not be charged after June 29, 1999, with respect to goods that qualify to be marked as goods of Mexico pursuant to such Annex 311, for such time as Mexico is a NAFTA country.

Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(11) No fee may be charged under subsection (a)(9) or (10) of this section with respect to products of Israel if an exemption with respect to the fee is implemented under section 112 of the Customs and Trade Act of 1990.

(12) No fee may be charged under subsection (a)(9) or (10) of this section with respect to goods that qualify as originating goods under section 202 of the United States-Chile Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(13) No fee may be charged under subsection (a)(9) or (10) of this section with respect to goods that qualify as originating goods under section 202 of the United States-Singapore Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(14) No fee may be charged under subsection (a)(9) or (10) of this section with respect to goods that qualify as originating goods under section 203 of the United States-Australia Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(15) No fee may be charged under subsection (a)(9) or (10) of this section with respect to goods that qualify as originating goods under section 4033 of this title. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(16) No fee may be charged under subsection (a)(9) or (10) of this section with respect to goods that qualify as originating goods under section 202 of the United States-Bahrain Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(17) No fee may be charged under subsection (a)(9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Oman Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(18) No fee may be charged under subsection (a)(9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Peru Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(19) No fee may be charged under subsection (a)(9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Korea Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(20) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Colombia Trade Promotion

Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(21) No fee may be charged under subsection (a)(9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Panama Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(c) Definitions

For purposes of this section—

(1) The term “ferry” means any vessel which is being used—

(A) to provide transportation only between places that are no more than 300 miles apart, and

(B) to transport only—

(i) passengers, or

(ii) vehicles, or railroad cars, which are being used, or have been used, in transporting passengers or goods.

(2) The term “arrival” means arrival at a port of entry in the customs territory of the United States.

(3) The term “customs territory of the United States” has the meaning given to such term by general note 2 of the Harmonized Tariff Schedule of the United States.

(4) The term “customs broker permit” means a permit issued under section 1641(c) of this title.

(5) The term “barge or other bulk carrier” means any vessel which—

(A) is not self-propelled, or

(B) transports fungible goods that are not packaged in any form.

(d) Collection

(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the customs territory of the United States shall—

(A) collect from that individual the fee charged under subsection (a)(5) of this section at the time the document or ticket is issued; and

(B) separately identify on that document or ticket the fee charged under subsection (a)(5) of this section as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the customs territory of the United States is issued in a foreign country; and

(B) the fee charged under subsection (a)(5) of this section is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the customs territory of the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Sec-

retary of the Treasury at any time before the date that is 31 days after the close of the calendar quarter in which the fees are collected.

(4)(A) Notice of the date on which payment of the fee imposed by subsection (a)(7) of this section is due shall be published by the Secretary of the Treasury in the Federal Register by no later than the date that is 60 days before such due date.

(B) A customs broker permit may be revoked or suspended for nonpayment of the fee imposed by subsection (a)(7) of this section only if notice of the date on which payment of such fee is due was published in the Federal Register at least 60 days before such due date.

(C) The customs broker's license issued under section 1641(b) of this title may not be revoked or suspended merely by reason of nonpayment of the fee imposed under subsection (a)(7) of this section.

(e) Provision of customs services

(1) Notwithstanding section 1451 of this title or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights at customs serviced airports when needed and at no cost (other than the fees imposed under subsection (a) of this section) to airlines and airline passengers.

(2)(A) This subsection shall not apply with respect to any airport, seaport, or other facility to which section 58b of this title applies.

(B) Subparagraph (C) of paragraph (6) shall not apply with respect to any foreign trade zone or subzone that is located at, or in the vicinity of, an airport, seaport, or other facility to which section 58b of this title applies.

(3) Notwithstanding section 1451 of this title or any other provision of law—

(A) the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights when needed at places located outside the customs territory of the United States at which a customs officer is stationed for the purpose of providing such customs services, and

(B) other than the fees imposed under subsection (a) of this section, the airlines and airline passengers shall not be required to reimburse the Secretary of the Treasury for the costs of providing overtime customs inspectional services at such places.

(4) Notwithstanding any other provision of law, all customs services (including, but not limited to, normal and overtime clearance and preclearance services) shall be adequately provided, when requested, for—

(A) the clearance of any commercial vessel, vehicle, or aircraft or its passengers, crew, stores, material, or cargo arriving, departing, or transiting the United States;

(B) the preclearance at any customs facility outside the United States of any commercial vessel, vehicle or aircraft or its passengers, crew, stores, material, or cargo; and

(C) the inspection or release of commercial cargo or other commercial shipments being

entered into, or withdrawn from, the customs territory of the United States.

(5) For purposes of this subsection, customs services shall be treated as being “adequately provided” if such of those services that are necessary to meet the needs of parties subject to customs inspection are provided in a timely manner taking into account factors such as—

(A) the unavoidability of weather, mechanical, and other delays;

(B) the necessity for prompt and efficient passenger and baggage clearance;

(C) the perishability of cargo;

(D) the desirability or unavoidability of late night and early morning arrivals from various time zones;

(E) the availability (in accordance with regulations prescribed under subsection (g)(2) of this section) of customs personnel and resources; and

(F) the need for specific enforcement checks.

(6) Notwithstanding any other provision of law except paragraph (2), during any period when fees are authorized under subsection (a) of this section, no charges, other than such fees, may be collected—

(A) for any—

(i) cargo inspection, clearance, or other customs activity, expense, or service performed (regardless whether performed outside of normal business hours on an overtime basis), or

(ii) customs personnel provided,

in connection with the arrival or departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, in the United States;

(B) for any preclearance or other customs activity, expense, or service performed, and any customs personnel provided, outside the United States in connection with the departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, for the United States; or

(C) in connection with—

(i) the activation or operation (including Customs Service supervision) of any foreign trade zone or subzone established under the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.), or

(ii) the designation or operation (including Customs Service supervision) of any bonded warehouse under section 1555 of this title.

(f) Disposition of fees

(1) There is established in the general fund of the Treasury a separate account which shall be known as the “Customs User Fee Account”. Notwithstanding section 1524 of this title, there shall be deposited as offsetting receipts into the Customs User Fee Account all fees collected under subsection (a) of this section except—

(A) the portion of such fees that is required under paragraph (3) for the direct reimbursement of appropriations, and

(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).

(2) Except as otherwise provided in this subsection, all funds in the Customs User Fee Ac-

count shall be available, to the extent provided for in appropriations Acts, to pay the costs (other than costs for which direct reimbursement under paragraph (3) is required) incurred by the United States Customs Service in conducting customs revenue functions as defined in section 215 of title 6 (other than functions performed by the Office of International Affairs referred to in section 215(8) of title 6), and for automation (including the Automation Commercial Environment computer system), and for no other purpose. To the extent that funds in the Customs User Fee Account are insufficient to pay the costs of such customs revenue functions, customs duties in an amount equal to the amount of such insufficiency shall be available, to the extent provided for in appropriations Acts, to pay the costs of such customs revenue functions in the amount of such insufficiency, and shall be available for no other purpose. The provisions of the first and second sentences of this paragraph specifying the purposes for which amounts in the Customs User Fee Account may be made available shall not be superseded except by a provision of law which specifically modifies or supersedes such provisions. So long as there is a surplus of funds in the Customs User Fee Account, the Secretary of the Treasury may not reduce personnel staffing levels for providing commercial clearance and preclearance services.

(3)(A) The Secretary of the Treasury, in accordance with section 1524 of this title and subject to subparagraph (B), shall directly reimburse, from the fees collected under subsection (a) of this section (other than the fees under subsection (a)(9) and (10) of this section and the excess fees determined by the Secretary under paragraph (5)), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary—

(i) in—

(I) paying overtime compensation under section 267(a) of this title,

(II) paying premium pay under section 267(b) of this title, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the total cost of all the premium pay for such year calculated under section 267(b) of this title and the cost of the night and holiday premium pay that the Customs Service would have incurred for the same inspectional work on the day before August 10, 1993,

(III) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I),

(IV) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and

(V) paying foreign language proficiency awards under section 267a of this title,

(ii) to the extent funds remain available after making reimbursements under clause (i), in providing salaries for full-time and part-time inspectional personnel and equipment that enhance customs services for those persons or entities that are required to pay fees under paragraphs (1) through (8) of subsection

(a) of this section (distributed on a basis proportionate to the fees collected under paragraphs (1) through (8) of subsection (a) of this section), and

(iii) to the extent funds remain available after making reimbursements under clause (ii), in providing salaries for up to 50 full-time equivalent inspectional positions to provide preclearance services.

The transfer of funds required under subparagraph (C)(iii) has priority over reimbursements under this subparagraph to carry out subclauses (II), (III), (IV), and (V) of clause (i). Funds described in clause (ii) shall only be available to reimburse costs in excess of the highest amount appropriated for such costs during the period beginning with fiscal year 1990 and ending with the current fiscal year.

(B) Reimbursement of appropriations under this paragraph—

(i) shall be subject to apportionment or similar administrative practices;

(ii) shall be made at least quarterly; and

(iii) to the extent necessary, may be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.

(C)(i) For fiscal year 1991 and subsequent fiscal years, the amount required to reimburse costs described in subparagraph (A)(i) shall be projected from actual requirements, and only the excess of collections over such projected costs for such fiscal year shall be used as provided in subparagraph (A)(ii).

(ii) The excess of collections over inspectional overtime and preclearance costs (under subparagraph (A)(i)) reimbursed for fiscal years 1989 and 1990 shall be available in fiscal year 1991 and subsequent fiscal years for the purposes described in subparagraph (A)(ii), except that \$30,000,000 of such excess shall remain without fiscal year limitation in a contingency fund and, in any fiscal year in which receipts are insufficient to cover the costs described in subparagraph (A)(i) and (ii), shall be used for—

(I) the costs of providing the services described in subparagraph (A)(i), and

(II) after the costs described in subclause (I) are paid, the costs of providing the personnel and equipment described in subparagraph (A)(ii) at the preceding fiscal year level.

(iii) For each fiscal year, the Secretary of the Treasury shall calculate the difference between—

(I) the estimated cost for overtime compensation that would have been incurred during that fiscal year for inspectional services if sections 261 and 267 of this title, as in effect before the enactment of section 13811 of the Omnibus Budget Reconciliation Act of 1993, had governed such costs, and

(II) the actual cost for overtime compensation, premium pay, and agency retirement contributions that is incurred during that fiscal year in regard to inspectional services under section 267 of this title, as amended by section 13811 of the Omnibus Budget Reconcili-

ation Act of 1993, and under section 8331(3) of title 5, as amended by section 13812(a)(1) of such Act of 1993, plus the actual cost that is incurred during that fiscal year for foreign language proficiency awards under section 267a of this title,

and shall transfer from the Customs User Fee Account to the General Fund of the Treasury an amount equal to the difference calculated under this clause, or \$18,000,000, whichever amount is less. Transfers shall be made under this clause at least quarterly and on the basis of estimates to the same extent as are reimbursements under subparagraph (B)(iii).

(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives summarizing the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii).

(E) Nothing in this paragraph shall be construed to preclude the use of appropriated funds, from sources other than the fees collected under subsection (a) of this section, to pay the costs set forth in clauses (i), (ii), and (iii) of subparagraph (A).

(4) At the close of fiscal year 1988 and each even-numbered fiscal year occurring thereafter, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding how the fees imposed under subsection (a) of this section should be adjusted in order that the balance of the Customs User Fee Account approximates a zero balance. Before making recommendations regarding any such adjustments, the Secretary of the Treasury shall provide adequate opportunity for public comment. The recommendations shall, as precisely as possible, propose fees which reflect the actual costs to the United States Government for the commercial services provided by the United States Customs Service.

(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the "Customs Commercial and Homeland Security Automation Account". In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A) of this section, \$350,000,000.

(B) There is authorized to be appropriated from the Account in fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

(C) In adjusting the fee imposed by subsection (a)(9)(A) of this section for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Account during fiscal years 2003, 2004, and

2005 exceed total appropriations from that Account.

(6) Of the amounts collected in fiscal year 1999 under paragraphs (9) and (10) of subsection (a) of this section, \$50,000,000 shall be available to the Customs Service, subject to appropriations Acts, for automated commercial systems. Amounts made available under this paragraph shall remain available until expended.

(g) Regulations and enforcement

(1) The Secretary of the Treasury may prescribe such rules and regulations as may be necessary to carry out the provisions of this section. Regulations issued by the Secretary of the Treasury under this subsection with respect to the collection of the fees charged under subsection (a)(5) of this section and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of title 26, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

(2) Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee prescribed under subsection (a) of this section, and with respect to persons liable therefor, as if such fee is a customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the amount of the fee assessed. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any fee prescribed under subsection (a) of this section shall be treated as if such fee is a customs duty.

(h) Omitted

(i) Effect on other authority

Except with respect to customs services for which fees are imposed under subsection (a) of this section, nothing in this section shall be construed as affecting the authority of the Secretary of the Treasury to charge fees under section 58a of this title.

(j) Effective dates

(1) Except as otherwise provided in this subsection, the provisions of this section, and the amendments and repeals made by this section, shall apply with respect to customs services rendered after the date that is 90 days after April 7, 1986.

(2) Fees may be charged under subsection (a)(5) of this section only with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 90 days after April 7, 1986.

(3)(A) Fees may not be charged under paragraphs (9) and (10) of subsection (a) of this section after August 2, 2021.

(B)(i) Subject to clause (ii), Fees¹ may not be charged under paragraphs (1) through (8) of subsection (a) of this section after December 8, 2020.

(ii) In fiscal year 2006 and in each succeeding fiscal year for which fees under paragraphs (1) through (8) of subsection (a) of this section are authorized—

(I) the Secretary of the Treasury shall charge fees under each such paragraph in amounts that are reasonably related to the costs of providing customs services in connection with the activity or item for which the fee is charged under such paragraph, except that in no case may the fee charged under any such paragraph exceed by more than 10 percent the amount otherwise prescribed by such paragraph;

(II) the amount of fees collected under such paragraphs may not exceed, in the aggregate, the amounts paid in that fiscal year for the costs described in subsection (f)(3)(A) of this section incurred in providing customs services in connection with the activity or item for which the fees are charged under such paragraphs;

(III) a fee may not be collected under any such paragraph except to the extent such fee will be expended to pay the costs described in subsection (f)(3)(A) of this section incurred in providing customs services in connection with the activity or item for which the fee is charged under such paragraph; and

(IV) any fee collected under any such paragraph shall be available for expenditure only to pay the costs described in subsection (f)(3)(A) of this section incurred in providing customs services in connection with the activity or item for which the fee is charged under such paragraph.

(C)(i) Notwithstanding subparagraph (A), fees may be charged under paragraphs (9) and (10) of subsection (a) during the period beginning on August 3, 2021, and ending on September 30, 2021.

(ii) Notwithstanding subparagraph (B)(i), fees may be charged under paragraphs (1) through (8) of subsection (a) during the period beginning on December 9, 2020, and ending on August 31, 2021.

(D) Notwithstanding subparagraph (B)(i), fees may be charged under paragraphs (1) through (8) of subsection (a) during the period beginning on September 1, 2021, and ending on September 30, 2021.

(k) Advisory committee

The Commissioner of Customs shall establish an advisory committee whose membership shall consist of representatives from the airline, cruise ship, and other transportation industries who may be subject to fees under subsection (a) of this section. The advisory committee shall not be subject to termination under section 14 of the Federal Advisory Committee Act. The advisory committee shall meet on a periodic basis and shall advise the Commissioner on issues related to the performance of the inspectional services of the United States Customs Service. Such advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper

number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Commissioner shall give consideration to the views of the advisory committee in the exercise of his or her duties.

(Pub. L. 99-272, title XIII, § 13031, Apr. 7, 1986, 100 Stat. 308; Pub. L. 99-509, title VIII, § 8101, Oct. 21, 1986, 100 Stat. 1965; Pub. L. 99-514, § 2, title XVIII, § 1893(a)-(c)(1), (d), (e), Oct. 22, 1986, 100 Stat. 2095, 2927-2930; Pub. L. 100-203, title IX, § 9501(a), Dec. 22, 1987, 101 Stat. 1330-377; Pub. L. 100-418, title I, § 1214(g), Aug. 23, 1988, 102 Stat. 1156; Pub. L. 100-449, title II, § 203, Sept. 28, 1988, 102 Stat. 1861; Pub. L. 100-647, title IX, § 9001(a)(13), Nov. 10, 1988, 102 Stat. 3807; Pub. L. 101-207, § 3(c)(1), (f)(2), Dec. 7, 1989, 103 Stat. 1834, 1835; Pub. L. 101-382, title I, §§ 111(a)-(e), 139(c), Aug. 20, 1990, 104 Stat. 635-639, 654; Pub. L. 101-508, title X, § 10001(a), (b), (e), (f), Nov. 5, 1990, 104 Stat. 1388-385 to 1388-387; Pub. L. 103-66, title XIII, §§ 13801, 13813, Aug. 10, 1993, 107 Stat. 667, 671; Pub. L. 103-182, title II, § 204, title V, § 521(a), title VI, § 682, Dec. 8, 1993, 107 Stat. 2092, 2160, 2218; Pub. L. 103-465, title VI, §§ 611(a), 612(a), Dec. 8, 1994, 108 Stat. 4991, 4992; Pub. L. 104-295, §§ 4(a), 6, 21(a)(1), 38(a)-(c), Oct. 11, 1996, 110 Stat. 3516, 3517, 3529, 3539, 3540; Pub. L. 105-150, § 1(a), Dec. 16, 1997, 111 Stat. 2685; Pub. L. 106-36, title I, § 1001(b)(1), title II, § 2418(a)-(d), June 25, 1999, 113 Stat. 131, 176, 177; Pub. L. 106-476, title I, § 1457, Nov. 9, 2000, 114 Stat. 2170; Pub. L. 107-210, div. A, title III, § 337(a), Aug. 6, 2002, 116 Stat. 978; Pub. L. 107-296, title IV, § 419(a), Nov. 25, 2002, 116 Stat. 2181; Pub. L. 108-77, title II, § 204, Sept. 3, 2003, 117 Stat. 930; Pub. L. 108-78, title II, § 203, Sept. 3, 2003, 117 Stat. 961; Pub. L. 108-89, title III, § 301, Oct. 1, 2003, 117 Stat. 1134; Pub. L. 108-121, title II, § 201, Nov. 11, 2003, 117 Stat. 1343; Pub. L. 108-286, title II, § 204, Aug. 3, 2004, 118 Stat. 939; Pub. L. 108-357, title VIII, § 892(a), (b), (c)(2), (d), Oct. 22, 2004, 118 Stat. 1644-1646; Pub. L. 108-429, title II, § 2004(f), Dec. 3, 2004, 118 Stat. 2593; Pub. L. 109-53, title II, § 204, Aug. 2, 2005, 119 Stat. 483; Pub. L. 109-169, title II, § 203, Jan. 11, 2006, 119 Stat. 3591; Pub. L. 109-280, title XIV, § 1635(f)(5), Aug. 17, 2006, 120 Stat. 1171; Pub. L. 109-283, title II, § 203, Sept. 26, 2006, 120 Stat. 1201; Pub. L. 110-42, § 3, June 30, 2007, 121 Stat. 236; Pub. L. 110-52, § 2, Aug. 1, 2007, 121 Stat. 264; Pub. L. 110-89, § 2(b), Sept. 28, 2007, 121 Stat. 982; Pub. L. 110-138, title II, § 204, title VI, § 601, Dec. 14, 2007, 121 Stat. 1475, 1489; Pub. L. 110-191, § 3, Feb. 29, 2008, 122 Stat. 646; Pub. L. 110-234, title XV, § 15201(a), (b), May 22, 2008, 122 Stat. 1500; Pub. L. 110-246, § 4(a), title XV, § 15201(a), (b), June 18, 2008, 122 Stat. 1664, 2262; Pub. L. 110-287, § 2, July 29, 2008, 122 Stat. 2649; Pub. L. 110-436, § 5(a), Oct. 16, 2008, 122 Stat. 4981; Pub. L. 111-42, title I, § 103, July 28, 2009, 123 Stat. 1963; Pub. L. 111-124, § 3, Dec. 28, 2009, 123 Stat. 3484; Pub. L. 111-171, § 11, May 24, 2010, 124 Stat. 1207; Pub. L. 111-210, § 2, July 27, 2010, 124 Stat. 2256; Pub. L. 111-227, title IV, § 4001(a), (b)(1), Aug. 11, 2010, 124 Stat. 2480; Pub. L. 111-291, title VIII, § 821, Dec. 8, 2010, 124 Stat. 3163; Pub. L. 111-344, title III, § 301, Dec. 29, 2010, 124 Stat. 3617; Pub. L. 112-41, title II, § 203, title V, § 504, Oct. 21, 2011, 125 Stat. 447, 460; Pub. L. 112-42, title II, § 204, title VI, §§ 601(a), 602, Oct. 21, 2011, 125 Stat. 483, 495, 496; Pub. L. 112-43, title II, § 204, title V, § 501, Oct. 21, 2011, 125 Stat. 518, 530.)

¹ So in original. Probably should not be capitalized.

AMENDMENT OF SECTION

For termination of amendment by section 107(c) of Pub. L. 112-43, see *Effective and Termination Dates of 2011 Amendment* note below.

For termination of amendment by section 107(c) of Pub. L. 112-42, see *Effective and Termination Dates of 2011 Amendment* note below.

For termination of amendment by section 107(c) of Pub. L. 112-41, see *Effective and Termination Dates of 2011 Amendment* note below.

For termination of amendment by section 107(c) of Pub. L. 110-138, see *Effective and Termination Dates of 2007 Amendment* note below.

For termination of amendment by section 107(c) of Pub. L. 109-283, see *Effective and Termination Dates of 2006 Amendment* note below.

For termination of amendment by section 106(c) of Pub. L. 109-169, see *Effective and Termination Dates of 2006 Amendment* note below.

For termination of amendment by section 107(d) of Pub. L. 109-53, see *Effective and Termination Dates of 2005 Amendment* note below.

For termination of amendment by section 106(c) of Pub. L. 108-286, see *Effective and Termination Dates of 2004 Amendment* note below.

For termination of amendment by section 107(c) of Pub. L. 108-78, see *Effective and Termination Dates of 2003 Amendment* note below.

For termination of amendment by section 107(c) of Pub. L. 108-77, see *Effective and Termination Dates of 2003 Amendment* note below.

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsecs. (b)(8)(B), (D) and (c)(3), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

Section 202 of the United States-Canada Free-Trade Agreement Implementation Act, referred to in subsec. (b)(10)(A), is section 202 of Pub. L. 100-449, which is set out as a note under section 2112 of this title.

Section 112 of the Customs and Trade Act of 1990, referred to in subsec. (b)(11), is section 112 of Pub. L. 101-382, which is set out below.

Section 202 of the United States-Chile Free Trade Agreement Implementation Act, referred to in subsec. (b)(12), is section 202 of Pub. L. 108-77, which is set out in a note under section 3805 of this title.

Section 202 of the United States-Singapore Free Trade Agreement Implementation Act, referred to in subsec. (b)(13), is section 202 of Pub. L. 108-78, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Australia Free Trade Agreement Implementation Act, referred to in subsec. (b)(14), is section 203 of Pub. L. 108-286, which is set out in a note under section 3805 of this title.

Section 202 of the United States-Bahrain Free Trade Agreement Implementation Act, referred to in subsec. (b)(16), is section 202 of Pub. L. 109-169, which is set out in a note under section 3805 of this title.

Section 202 of the United States-Oman Free Trade Agreement Implementation Act, referred to in subsec. (b)(17), is section 202 of Pub. L. 109-283, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Peru Trade Promotion Agreement Implementation Act, referred to in subsec. (b)(18), is section 203 of Pub. L. 110-138, which is set out in a note under section 3805 of this title.

Section 202 of the United States-Korea Free Trade Agreement Implementation Act, referred to in subsec. (b)(19), is section 202 of Pub. L. 112-41, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Colombia Trade Promotion Agreement Implementation Act, referred to in subsec. (b)(20), is section 203 of Pub. L. 112-42, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Panama Trade Promotion Agreement Implementation Act, referred to in subsec. (b)(21), is section 203 of Pub. L. 112-43, which is set out in a note under section 3805 of this title.

Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.), referred to in subsec. (e)(6)(C)(i), is act June 18, 1934, ch. 590, 48 Stat. 998, which is classified generally to chapter 1A (§81a et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Sections 261 and 267 of this title, as in effect before the enactment of section 13811 of the Omnibus Budget Reconciliation Act of 1993, referred to in subsec. (f)(3)(C)(iii), means sections 261 and 267 of this title as in effect before the amendment made by section 13811 of Pub. L. 103-66, which amended section 267 of this title and omitted section 261 of this title.

Section 267 of this title, as amended by section 13811 of the Omnibus Budget Reconciliation Act of 1993, referred to in subsec. (f)(3)(C)(iii)(II), means section 267 of this title as amended by section 13811 of Pub. L. 103-66.

Section 8331(3) of title 5, as amended by section 13812(a)(1) of such Act of 1993, referred to in subsec. (f)(3)(C)(iii)(II), means section 8331(3) of title 5, as amended by section 13812(a)(1) of Pub. L. 103-66.

The amendments and repeals made by this section, referred to in subsec. (j)(1), means the amendment of section 545(i) of Title 45, Railroads, and the repeal of section 1741(e) of former Title 49, Transportation, by subsec. (h) of this section.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (k), is section 14 of Pub. L. 92-463, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Section is comprised of section 13031 of Pub. L. 99-272. Subsec. (h) of section 13031 of Pub. L. 99-272 amended section 545(i) of Title 45, Railroads, and repealed section 1741(e) of former Title 49, Transportation.

AMENDMENTS

2011—Subsec. (b)(1)(A)(i). Pub. L. 112-42, §601(a), amended cl. (i) generally. Prior to amendment, cl. (i) related to the arrival of any passenger whose journey originated in, or originated in the United States and was limited to, Canada, Mexico, a territory or possession of the United States, or any adjacent island (with the meaning of section 1101(b)(5) of title 8).

Subsec. (b)(19). Pub. L. 112-41, §§107(c), 203, temporarily added par. (19). See *Effective and Termination Dates of 2011 Amendment* note below.

Subsec. (b)(20). Pub. L. 112-42, §§107(c), 204, temporarily added par. (20). See *Effective and Termination Dates of 2011 Amendment* note below.

Subsec. (b)(21). Pub. L. 112-43, §§107(c), 204, temporarily added par. (21). See *Effective and Termination Dates of 2011 Amendment* note below.

Subsec. (j)(3)(A). Pub. L. 112-41, §504(a), substituted “August 2, 2021” for “January 7, 2020”.

Subsec. (j)(3)(B)(i). Pub. L. 112-41, §504(b), substituted “December 8, 2020” for “January 14, 2020”.

Subsec. (j)(3)(C). Pub. L. 112-42, §602, added subpar. (C).

Subsec. (j)(3)(D). Pub. L. 112-43, §501, added subpar. (D).

2010—Subsec. (j)(3)(A). Pub. L. 111-344, §301(1), substituted “January 7, 2020” for “September 30, 2019”.

Pub. L. 111-291, §821(1), substituted “September 30, 2019” for “December 10, 2018”.

Pub. L. 111-227, §4001(a)(1), substituted “December 10, 2018” for “November 10, 2018”.

Pub. L. 111-171, §11(1), as amended by Pub. L. 111-227, §4001(b)(1), substituted “November 10, 2018” for “May 14, 2018”.

Subsec. (j)(3)(B)(i). Pub. L. 111-344, §301(2), substituted “January 14, 2020” for “September 30, 2019”.

Pub. L. 111-291, §821(2), substituted “September 30, 2019” for “November 30, 2018”.

Pub. L. 111-227, §4001(a)(2), substituted “November 30, 2018” for “August 24, 2018”.

Pub. L. 111-210 substituted “August 24, 2018” for “August 17, 2018”.

Pub. L. 111-171, §11(2), as amended by Pub. L. 111-227, §4001(b)(1), substituted “August 17, 2018” for “June 7, 2018”.

2009—Subsec. (j)(3)(A). Pub. L. 111-124, §3(1), substituted “May 14, 2018” for “February 14, 2018”.

Subsec. (j)(3)(B)(i). Pub. L. 111-124, §3(2), substituted “June 7, 2018” for “February 7, 2018”.

Pub. L. 111-42 substituted “February 7, 2018” for “January 31, 2018”.

2008—Subsec. (j)(3)(A). Pub. L. 110-436, §5(a)(1), substituted “February 14, 2018” for “November 14, 2017”.

Pub. L. 110-246, §15201(a), substituted “November 14, 2017” for “December 27, 2014”.

Pub. L. 110-191, §3(1), which directed amendment of subpar. (A) by substituting “December 27, 2014” for “December 13, 2014”, was executed by making the substitution for “October 21, 2014”, to reflect the probable intent of Congress.

Subsec. (j)(3)(B)(i). Pub. L. 110-436, §5(a)(2), substituted “January 31, 2018” for “October 7, 2017”.

Pub. L. 110-287 substituted “October 7, 2017” for “September 30, 2017”.

Pub. L. 110-246, §15201(b), substituted “September 30, 2017” for “December 27, 2014”.

Pub. L. 110-191, §3(2), which directed amendment of cl. (i) by substituting “December 27, 2014” for “December 13, 2014”, was executed by making the substitution for “October 7, 2014”, to reflect the probable intent of Congress.

2007—Subsec. (b)(18). Pub. L. 110-138, §§107(c), 204, temporarily added par. (18). See Effective and Termination Dates of 2007 Amendment note below.

Subsec. (j)(3)(A). Pub. L. 110-138, §§107(c), 601(a), which directed the temporary amendment of subpar. (A) by substituting “December 13, 2014” for “October 21, 2014”, was not executed because of the subsequent amendments by Pub. L. 110-191, Pub. L. 110-246, and Pub. L. 110-436, which were all effective prior to the effective date of the amendment by Pub. L. 110-138. See 2008 Amendment notes above and Effective and Termination Dates of 2007 Amendment note and Effective Date of 2008 Amendment notes below.

Pub. L. 110-52 substituted “October 21, 2014” for “October 14, 2014”.

Pub. L. 110-42 substituted “October 14, 2014” for “September 30, 2014”.

Subsec. (j)(3)(B)(i). Pub. L. 110-138, §§107(c), 601(b), which directed the temporary amendment of cl. (i) by substituting “December 13, 2014” for “October 7, 2014”, was not executed because of the subsequent amendments by Pub. L. 110-191, Pub. L. 110-246, Pub. L. 110-287, and Pub. L. 110-436, which were all effective prior to the effective date of the amendment by Pub. L. 110-138. See 2008 Amendment notes above and Effective and Termination Dates of 2007 Amendment note and Effective Date of 2008 Amendment notes below.

Pub. L. 110-89 substituted “October 7, 2014” for “September 30, 2014”.

2006—Subsec. (b)(13), (15). Pub. L. 109-169, §§106(c), 203(1), temporarily realigned margins. See Effective and Termination Dates of 2006 Amendment note below.

Subsec. (b)(16). Pub. L. 109-169, §§106(c), 203(2), temporarily added par. (16). See Effective and Termination Dates of 2006 Amendment note below.

Subsec. (b)(17). Pub. L. 109-283, §§107(c), 203, temporarily added par. (17). See Effective and Termination Dates of 2006 Amendment note below.

Subsec. (e)(6)(C)(i). Pub. L. 109-280 substituted “commonly known” for “commonly know”.

2005—Subsec. (b)(15). Pub. L. 109-53, §§107(d), 204, temporarily added par. (15). See Effective and Termination Dates of 2005 Amendment note below.

2004—Subsec. (a)(5)(B). Pub. L. 108-357, §892(d)(1), substituted “\$1.75.” for “\$1.75”.

Subsec. (b)(1)(A)(iii). Pub. L. 108-357, §892(d)(2)(A), realigned margins.

Subsec. (b)(7). Pub. L. 108-357, §892(d)(2)(B), substituted “paragraph” for “paragraphs” in introductory provisions.

Subsec. (b)(9)(A). Pub. L. 108-429, §2004(f)(1), substituted “\$2,000 or less” for “less than \$2,000” in introductory provisions.

Subsec. (b)(9)(A)(ii). Pub. L. 108-429, §2004(f)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “Subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility, \$.66 per individual airway bill or bill of lading.”

Subsec. (b)(9)(B). Pub. L. 108-429, §2004(f)(3)(A), realigned margins.

Pub. L. 108-357, §892(d)(2)(C), realigned margins.

Subsec. (b)(9)(B)(ii). Pub. L. 108-429, §2004(f)(3)(B), substituted “subparagraph (A)(ii)(I) or (II)” for “subparagraph (A)(ii)”.

Subsec. (b)(14). Pub. L. 108-286, §§106(c), 204, temporarily added par. (14). See Effective and Termination Dates of 2004 Amendment note below.

Subsec. (e)(2)(B). Pub. L. 108-357, §892(d)(3), realigned margins.

Subsec. (f)(1)(B). Pub. L. 108-429, §2004(f)(4), realigned margins.

Pub. L. 108-357, §892(a)(1), realigned margins.

Subsec. (f)(2). Pub. L. 108-357, §892(a)(2), substituted provisions authorizing availability of amounts for customs revenue functions and for automation and no other purpose, for provisions authorizing availability of amounts for commercial operations, including, but not limited to, all costs associated with commercial passenger, vessel, vehicle, aircraft, and cargo processing; and inserted provisions relating to insufficiency of funds to pay costs of customs revenue functions and modification or supersession of provisions.

Subsec. (f)(3)(E). Pub. L. 108-357, §892(b), added subpar. (E).

Subsec. (j)(3). Pub. L. 108-357, §892(c)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Fees may not be charged under subsection (a) of this section after March 1, 2005.”

2003—Subsec. (b)(12). Pub. L. 108-77, §§107(c), 204, temporarily added par. (12). See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (b)(13). Pub. L. 108-78, §§107(c), 203, temporarily added par. (13). See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (j)(3). Pub. L. 108-121 substituted “March 1, 2005” for “March 31, 2004”.

Pub. L. 108-89 substituted “March 31, 2004” for “September 30, 2003”.

2002—Subsec. (b)(9)(A). Pub. L. 107-210, §337(a)(1)(A), in introductory provisions, substituted “the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is less than \$2,000 (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 1498 of this title), except such items entered for transportation and exportation or immediate exportation” for “the processing of merchandise that is informally entered or released”.

Subsec. (b)(9)(A)(ii). Pub. L. 107-210, §337(a)(1)(B), added cl. (ii) and struck out former cl. (ii) which read as follows: “In the case of an express consignment carrier facility or centralized hub facility—

“(I) an amount, for which the Customs Service shall be reimbursed under section 1524 of this title, equal to the cost of the services provided by the Customs Service for the facility during the fiscal year; and

“(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section for such fiscal year, in an amount equal to the reimbursement made under subclause (I).”

Subsec. (b)(9)(B), (C). Pub. L. 107-210, § 337(a)(2), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (f)(1)(B). Pub. L. 107-296, § 419(a)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “the portion of such fees that is determined by the Secretary to be excess fees under paragraph (5).”

Subsec. (f)(4). Pub. L. 107-296, § 419(a)(2), struck out “(other than the excess fees determined by the Secretary under paragraph (5))” after “subsection (a) of this section”.

Subsec. (f)(5). Pub. L. 107-296, § 419(a)(3), added par. (5) and struck out former par. (5) which read as follows: “At the close of each of fiscal years 1994, 1995, 1996, and 1997, the Secretary of the Treasury shall determine the amount of the fees collected under paragraph (5)(A) of subsection (a) of this section for that fiscal year that exceeds the amount of such fees that would have been collected for such fiscal year if the fees that were in effect on the day before the effective date of this paragraph applied to such fiscal year. The amount of the excess fees determined under the preceding sentence shall be deposited in the Customs User Fee Account and shall be available for reimbursement of inspectional costs (including passenger processing costs) not otherwise reimbursed under this section, and shall be available only to the extent provided in appropriations Acts.”

2000—Subsec. (b)(1)(A)(iii). Pub. L. 106-476 amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “the arrival of any ferry; or”.

1999—Subsec. (a)(5). Pub. L. 106-36, § 2418(b)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows:

“(5)(A) For fiscal years 1994, 1995, 1996, and 1997, for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the customs territory of the United States, \$6.50.

“(B) For fiscal year 1998 and each fiscal year thereafter, for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)(i) of this section), \$5.”

Subsec. (b)(1)(A). Pub. L. 106-36, § 2418(b)(2), substituted “Except as provided in subsection (a)(5)(B) of this section, no fee” for “No fee” in introductory provisions.

Subsec. (e)(1). Pub. L. 106-36, § 1001(b)(1)(A), realigned margins.

Subsec. (f)(3)(A)(ii). Pub. L. 106-36, § 1001(b)(1)(B)(i), substituted “collected under paragraphs (1) through (8) of subsection (a)” for “collected under subsection (a)(1) through (a)(8)”.

Subsec. (f)(3)(A)(iii). Pub. L. 106-36, § 2418(a), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “to the extent funds remain available after making reimbursements under clause (ii), in providing salaries for up to 50 full-time equivalent inspectional positions through September 30, 1998, that enhance customs services in connection with the arrival in Florida of passengers aboard commercial vessels, regardless of whether those passengers are required to pay fees under paragraphs (1) through (8) of subsection (a) of this section.”

Subsec. (f)(3)(C)(ii)(I). Pub. L. 106-36, § 1001(b)(1)(B)(ii), substituted “subparagraph (A)(i)” for “paragraph (A)(i)”.

Subsec. (f)(6). Pub. L. 106-36, § 2418(c), added par. (6).

Subsec. (k). Pub. L. 106-36, § 2418(d), added subsec. (k). 1997—Subsec. (f)(3)(A)(ii). Pub. L. 105-150, § 1(a)(2)(A), substituted “after making reimbursements” for “to make reimbursements”.

Subsec. (f)(3)(A)(iii). Pub. L. 105-150, § 1(a), added cl. (iii).

1996—Subsec. (a)(5)(A). Pub. L. 104-295, § 38(a)(1), inserted “a place” after “commercial aircraft from”.

Subsec. (a)(5)(B). Pub. L. 104-295, § 38(a)(2), substituted “subsection (b)(1)(A)(i)” for “subsection (b)(1)(A)”.

Subsec. (b)(1). Pub. L. 104-295, § 38(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “No fee may be charged under subsection (a) of this

section for customs services provided in connection with—

“(A) the arrival of any passenger whose journey—

“(i) originated in—

“(I) Canada,

“(II) Mexico,

“(III) a territory or possession of the United States, or

“(IV) any adjacent island (within the meaning of section 1101(b)(5) of title 8, or

“(ii) originated in the United States and was limited to—

“(I) Canada,

“(II) Mexico,

“(III) territories and possessions of the United States, and

“(IV) such adjacent islands;

“(B) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates; or

“(C) the arrival of any ferry.

Subparagraph (A) shall not apply to fiscal years 1994, 1995, 1996, and 1997.”

Subsec. (b)(4). Pub. L. 104-295, § 38(c), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and added subpar. (B).

Subsec. (b)(8)(D)(iv). Pub. L. 104-295, § 4(a)(1), substituted “heading 9802.00.80 of such Schedule” for “subparagraph 9802.00.80 of such Schedules” and struck out “and” at end.

Subsec. (b)(8)(D)(vi). Pub. L. 104-295, § 4(a)(2), (3), added cl. (vi).

Subsec. (b)(9)(A)(i). Pub. L. 104-295, § 6(a)(1), struck out “centralized hub facility or” after “case of a”.

Subsec. (b)(9)(A)(ii). Pub. L. 104-295, § 6(a)(2), in introductory provisions, substituted “facility or centralized hub facility” for “facility” and, in subcl. (I), struck out “customs inspectional” after “cost of the” and substituted “for the facility” for “at the facility”.

Subsec. (b)(9)(B)(i). Pub. L. 104-295, § 6(b), struck out “, as in effect on July 30, 1990” after “Code of Federal Regulations” and inserted at end “Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).”

Subsec. (b)(9)(B)(ii). Pub. L. 104-295, § 6(c), made technical amendment to reference in original act which appears in text as reference to section 58b of this title.

Subsec. (b)(10)(A). Pub. L. 104-295, § 21(a)(1), substituted “section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988” for “section 202 of the United States-Canada Free-Trade Agreement” and “article 403 of that Agreement” for “section 403 of that Agreement”.

1994—Subsec. (a)(9)(A). Pub. L. 103-465, § 612(a)(1)(A), substituted “0.21” for “0.17”.

Subsec. (a)(9)(B). Pub. L. 103-465, § 612(a)(1)(B), (C), in cl. (i), substituted “(but not to a rate of more than 0.21 percent nor less than 0.15 percent) and the amounts specified in subsection (b)(8)(A)(i) (but not to more than \$485 nor less than \$21) to rates and amounts which would” for “(but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would” and in cl. (ii), substituted “subsection (f) of this section” for “section 1613b of this title”.

Subsec. (a)(10). Pub. L. 103-465, § 612(a)(2)(B), (C), substituted “\$6” for “\$5” in cl. (ii) and “\$9” for “\$8” in cl. (iii).

Subsec. (a)(10)(C). Pub. L. 103-465, § 612(a)(2)(A), which directed the amendment of subpar. (C) by substituting a comma for a period after “entry or release”, could

not be executed because a comma, rather than a period, already appeared after “entry or release”.

Subsec. (b)(8)(A)(i). Pub. L. 103-465, §612(a)(3), substituted “\$485 or be less than \$25, unless adjusted pursuant to subsection (a)(9)(B) of this section” for “\$400 or be less than \$21”.

Subsec. (f)(3)(A)(i)(II). Pub. L. 103-465, §611(a), amended subcl. (II) generally. Prior to amendment, subcl. (II) read as follows: “paying premium pay under section 267(b) of this title, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the cost of the premium pay for that year calculated under such section 267(b) of this title as amended by section 13811 of the Omnibus Budget Reconciliation Act of 1993 and the cost of such pay calculated under subchapter V of chapter 55 of title 5.”

1993—Subsec. (a)(5). Pub. L. 103-182, §521(a)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “For the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A) of this section), \$5.”

Subsec. (b)(1). Pub. L. 103-182, §521(a)(2), inserted after subpar. (C) “Subparagraph (A) shall not apply to fiscal years 1994, 1995, 1996, and 1997.”

Subsec. (b)(10). Pub. L. 103-182, §204, amended par. (10) generally. Prior to amendment, par. (10) read as follows: “The fee charged under subsection (a)(9) or (10) of this section with respect to goods of Canadian origin (as determined under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) shall be in accordance with article 403 of the United States-Canada Free-Trade Agreement. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.”

Subsec. (f)(1). Pub. L. 103-182, §521(a)(3)(A), substituted “except—” and subpars. (A) and (B) for “except that portion of such fees that is required under paragraph (3) for the direct reimbursement of appropriations.”

Subsec. (f)(3)(A). Pub. L. 103-182, §521(a)(3)(B), in introductory provisions, substituted “(other than the fees under subsection (a)(9) and (10) of this section and the excess fees determined by the Secretary under paragraph (5))” for “(other than subsection (a)(9) or (10) of this section)”.

Pub. L. 103-66, §13813(2), in closing provisions, inserted “The transfer of funds required under subparagraph (C)(iii) has priority over reimbursements under this subparagraph to carry out subclauses (II), (III), (IV), and (V) of clause (i).”

Subsec. (f)(3)(A)(i). Pub. L. 103-66, §13813(1), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “in providing—

“(I) inspectional overtime services, and

“(II) all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and”.

Subsec. (f)(3)(B)(i). Pub. L. 103-66, §13813(3), struck out “except for costs described in subparagraph (A)(i)(I) and (II),” before “shall be subject”.

Subsec. (f)(3)(C)(i), (iii). Pub. L. 103-66, §13813(4), substituted “to reimburse costs described in subparagraph (A)(i)” for “to fully reimburse inspectional overtime and preclearance costs” in clause (i) and added clause (iii).

Subsec. (f)(4). Pub. L. 103-182, §521(a)(3)(C), substituted “under subsection (a) of this section (other than the excess fees determined by the Secretary under paragraph (5))” for “under subsection (a) of this section”.

Subsec. (f)(5). Pub. L. 103-182, §521(a)(3)(D), added par. (5).

Subsec. (g). Pub. L. 103-182, §682, in par. (1), substituted “The” for “In addition to the regulations required under paragraph (2), the”, redesignated par. (3) as (2), and struck out former par. (2) which read as fol-

lows: “The Secretary of the Treasury shall prescribe regulations governing the work shifts of customs personnel at airports. Such regulations shall provide, among such other factors considered appropriate by the Secretary, that—

“(A) the work shifts will be adjusted, as necessary, to meet cyclical and seasonal demands and to minimize the use of overtime;

“(B) the work shifts will not be arbitrarily reduced or compressed; and

“(C) consultation with the Advisory Committee on Commercial Operations of the United States Customs Service (established under section 9501(c) of the Omnibus Budget Reconciliation Act of 1987) will be carried out before adjustments are made in the work shifts.”

Subsec. (j)(3). Pub. L. 103-182, §521(a)(4), substituted “2003” for “1998”.

Pub. L. 103-66, §13801, substituted “1998” for “1995”.

1990—Subsec. (a)(9). Pub. L. 101-508, §10001(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “For the processing of merchandise that is formally entered or released during any fiscal year, a fee, subject to the limitations in subsection (b)(8)(A) of this section, in an amount equal to 0.17 percent ad valorem.”

Pub. L. 101-382, §111(a), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “For the processing of any merchandise (other than an article that is—

“(A) provided for under any item in chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,

“(B) a product of an insular possession of the United States, or

“(C) a product of any county listed in general note 3(c)(v) of such Schedule) that is formally entered, or withdrawn from warehouse for consumption—

“(i) after November 30, 1986, and

“(ii) before October 1, 1987;

a fee in an amount equal to 0.22 percent ad valorem.”

Subsec. (a)(10). Pub. L. 101-508, §10001(e)(1), inserted “if more than 25,000 informal entries were cleared through such airport or facility during the fiscal year preceding such entry or release,” after “applies,” in subpar. (C).

Pub. L. 101-382, §111(a), amended par. (10) generally. Prior to amendment, par. (10) read as follows: “For the processing of any merchandise (other than an article described in subparagraph (A), (B), or (C) of paragraph (9)) that is formally entered, or withdrawn from warehouse for consumption, during any fiscal year occurring after September 30, 1987; a fee in an amount equal to the lesser of—

“(A) 0.17 percent ad valorem, or

“(B) an ad valorem rate which the Secretary of the Treasury estimates will provide a total amount of revenue during the fiscal year equal to—

“(i) the total amount authorized to be appropriated for such fiscal year to the United States Customs Service for salaries and expenses incurred in conducting commercial operations during such fiscal year, reduced by

“(ii) the excess, if any, of—

“(I) the total amount authorized to be appropriated for such salaries and expenses for such fiscal year, over

“(II) the total amount actually appropriated for such salaries and expenses for such fiscal year;

except that if appropriations are not authorized for a fiscal year, the fee imposed under this paragraph with respect to that year shall be in an amount equal to 0.17 percent ad valorem.”

Subsec. (b)(1)(B). Pub. L. 101-382, §111(b)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the arrival of any railroad car that is part of a train which originates and terminates in the same country, but only if—

“(i) such car is part of such train when such train departs from the United States, and

“(ii) no passengers board or disembark from such train, and no cargo is loaded or unloaded from such train, while such train is within any country other than the country in which such train originates and terminates; or”.

Subsec. (b)(8)(A). Pub. L. 101-382, §111(b)(2)(C), added subpar. (A). Former subpar. (A) redesignated (D).

Subsec. (b)(8)(B). Pub. L. 101-382, §111(b)(2)(B), (C), added subpar. (B) and struck out former subpar. (B) which read as follows:

“(i) By no later than the date that is 5 days after the date on which any funds are appropriated to the United States Customs Service for salaries or expenses incurred in conducting commercial operations, the Secretary of the Treasury shall determine the ad valorem rate of the fee charged under subsection (a)(10) of this section and shall publish the determination in the Federal Register. Such ad valorem rate shall apply with respect to services provided for the processing of entries, and withdrawals from warehouse, for consumption made after the date that is 60 days after the date of such determination.

“(ii) No determination is required under clause (i) with respect to an appropriation to the United States Customs Service if the funds appropriated are available for less than 60 days.”

Subsec. (b)(8)(C). Pub. L. 101-508, §10001(f), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “any reference to a manual entry or release includes—

“(I) any entry or release filed by a broker or importer that requires the recording of cargo selectivity data by customs personnel, except when the recording of such data is required because of a temporary administrative or technical failure in the Customs Service automated commercial system that prevents the filing of entries or release in that system by brokers and importers that are certified by the Customs Service to do so; and

“(II) any entry or release filed by a broker or importer that is not certified by the Customs Service to file entries and releases in the Customs Service automated commercial system.”

Pub. L. 101-382, §111(b)(2)(C), added subpar. (C).

Subsec. (b)(8)(D). Pub. L. 101-382, §139(c)(3), substituted “subheading 9802.00.60 or heading 9802.00.80 of such Schedule” for “subparagraph 9802.00.60 or 807.00 of such Schedules” in concluding provisions.

Pub. L. 101-382, §111(b)(2)(A), redesignated subpar. (A) as (D).

Subsec. (b)(8)(D)(ii). Pub. L. 101-382, §111(b)(2)(D)(i), substituted “except as otherwise provided in this paragraph, be based” for “be based”.

Subsec. (b)(8)(D)(iii). Pub. L. 101-382, §139(c)(1), substituted “subheading 9802.00.60 of the Harmonized Tariff Schedule of the United States” for “subparagraph 9802.00.60 of the Tariff Schedules of the United States”.

Subsec. (b)(8)(D)(iv). Pub. L. 101-382, §139(c)(2), which directed amendment of cl. (iv) by substituting “heading 9802.00.80 of such Schedule” for “subparagraph 9802.00.80 of Schedules”, could not be executed because “subparagraph 9802.00.80 of Schedules” did not appear in text.

Subsec. (b)(8)(D)(v). Pub. L. 101-382, §111(b)(2)(D)(ii)-(iv), added cl. (v).

Subsec. (b)(8)(E). Pub. L. 101-382, §111(b)(2)(E), added subpar. (E).

Subsec. (b)(9). Pub. L. 101-508, §10001(e)(2), inserted “, if more than 25,000 informal entries were cleared through such airport or facility during the preceding fiscal year” after “applies” in subpar. (B)(ii).

Pub. L. 101-382, §111(b)(3), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “The Secretary may reduce by an amount he considers equitable the fees charged under subsection (a) of this section for the processing of merchandise entries at facilities at which users reimburse the United States Customs Service, pursuant to section 9701 of title 31 or section 58b of this title, for the services that it provides at the facilities.”

Subsec. (b)(10). Pub. L. 101-382, §111(b)(4), inserted reference to subsec. (a)(9) of this section.

Subsec. (b)(11). Pub. L. 101-382, §111(b)(5), added par. (11).

Subsec. (f)(2). Pub. L. 101-382, §111(c)(1), substituted “Except as otherwise provided in this subsection, all funds” for “All funds”.

Subsec. (f)(3). Pub. L. 101-382, §111(c)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The Secretary of the Treasury, in accordance with section 1524 of this title and without regard to apportionment or any other administrative practice or limitation, shall directly reimburse, from the fees collected under subsection (a) of this section, each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary in providing—

“(A) inspectional overtime services; and

“(B) all preclearance services;

for which the recipients of such services are not required to reimburse the Secretary of the Treasury. Reimbursement under this paragraph shall apply with respect to each fiscal year occurring after September 30, 1987, and shall be made at least quarterly. To the extent necessary, reimbursement of appropriations under this paragraph may be made on the basis of estimates made by the Secretary of the Treasury of the costs for inspectional overtime and preclearance services, and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.”

Subsec. (g). Pub. L. 101-382, §111(d), inserted “and enforcement” after “Regulations” in heading and added par. (3).

Subsec. (j)(3). Pub. L. 101-508, §10001(a), substituted “1995” for “1991”.

Pub. L. 101-382, §111(e), substituted “1991” for “1990”. 1989—Subsec. (e)(2). Pub. L. 101-207 inserted subpar. (A) designation, added subpar. (B), and inserted “, seaport or other facility” after “airport” in subpars. (A) and (B).

1988—Subsec. (a)(9)(A). Pub. L. 100-418, §1214(g)(1), as amended by Pub. L. 100-647, §9001(a)(13), substituted “chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80” for “schedule 8 of the Tariff Schedules of the United States except item 806.30 or 807.00”.

Subsec. (a)(9)(C). Pub. L. 100-418, §1214(g)(2), (3), as amended by Pub. L. 100-647, §9001(a)(13), substituted “general note 3(c)(v) of such Schedule” for “General Headnote 3(e)(vi) or (vii) of such Schedules”.

Subsec. (b)(8)(A). Pub. L. 100-418, §1214(g)(4), (5), as added by Pub. L. 100-647, §9001(a)(13), substituted “subparagraph 9802.00.60” for “item 806.30” in cl. (iii) and concluding provisions and “subparagraph 9802.00.80” for “item 807.00” in cl. (iv).

Subsec. (b)(10). Pub. L. 100-449 added par. (10).

Subsec. (c)(3). Pub. L. 100-418, §1214(g)(6), formerly §1214(g)(3), as renumbered by Pub. L. 100-647, §9001(a)(13), substituted “general note 2 of the Harmonized Tariff Schedule of the United States” for “headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States”.

1987—Subsec. (a)(9)(A). Pub. L. 100-203, §9501(a)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “provided for in schedule 8 of the Tariff Schedules of the United States.”

Subsec. (b)(8)(A). Pub. L. 100-203, §9501(a)(1)(B), added cls. (iii) and (iv) and last sentence.

Subsec. (e)(4) to (6). Pub. L. 100-203, §9501(a)(2), added pars. (4) and (5), and redesignated former par. (4) as (6) and amended it generally. Prior to amendment, par. (6) read as follows: “Notwithstanding any other provision of law, during any period when fees are authorized under subsection (a) of this section, no charges, other than such fees, may be collected for—

“(A) any cargo inspection, clearance, or other customs service performed (regardless whether performed outside of normal business hours on an overtime basis); or

“(B) any customs personnel provided;

in connection with the arrival or departure of any commercial vessel, vehicle or aircraft, or its passengers, crew, and cargo, in the United States.”

Subsec. (f)(1) to (3). Pub. L. 100-203, §9501(a)(3), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

“(1) Notwithstanding section 1524 of this title, all of the fees collected under subsection (a) of this section shall be deposited in a separate account within the general fund of the Treasury of the United States. Such account shall be known as the ‘Customs User Fee Account’.

“(2)(A) The Secretary of the Treasury shall refund out of the Customs User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Secretary of the Treasury in providing overtime customs inspectional services for which the recipient of such services is not required to reimburse the Secretary of the Treasury.

“(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Secretary of the Treasury of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amounts required to be refunded under subparagraph (A).

“(3) Except as provided in paragraph (2), all funds in the Customs User Fee Account shall only be available, to the extent provided for in appropriation Acts, for the salaries and expenses of the United States Customs Service incurred in conducting commercial operations.”

Subsec. (g). Pub. L. 100-203, §9501(a)(4), designated existing provisions as par. (1), substituted “In addition to the regulations required under paragraph (2), the” for “The”, and added par. (2).

Subsec. (j)(3). Pub. L. 100-203, §9501(a)(5), substituted “1990” for “1989”.

1986—Subsec. (a)(2). Pub. L. 99-514, §1893(a)(1)(A), substituted “For” for “Subject to the limitation in subsection (b)(2) of this section, for”.

Subsec. (a)(3). Pub. L. 99-514, §1893(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Subject to the limitations in subsection (b)(1)(B) and (3) of this section, for the arrival of each railroad car, whether passenger or freight, \$5.”

Subsec. (a)(8). Pub. L. 99-514, §1893(a)(1)(B), which directed the amendment of subsec. (a) by adding par. (8) at the end thereof, was executed by adding par. (8) after par. (7) as the probable intent of Congress in view of the intervening addition of pars. (9) and (10) by Pub. L. 99-509.

Subsec. (a)(9), (10). Pub. L. 99-509, §8101(a), added pars. (9) and (10).

Subsec. (b)(1)(A). Pub. L. 99-514, §1893(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the arrival of any passenger whose journey originated in—

“(i) Canada,

“(ii) Mexico,

“(iii) a territory or possession of the United States,

or

“(iv) any adjacent island (within the meaning of section 1101(b)(5) of title 8; or”.

Subsec. (b)(1)(C). Pub. L. 99-514, §1893(b)(3), added subpar. (C).

Subsec. (b)(4) to (7). Pub. L. 99-514, §1893(b)(1), which directed the amendment of subsec. (b) by adding pars. (4) to (7) at the end thereof, was executed by adding pars. (4) to (7) after par. (3) as the probable intent of Congress in view of the intervening addition of pars. (8) and (9) by Pub. L. 99-509.

Subsec. (b)(8), (9). Pub. L. 99-509, §8101(b), added pars. (8) and (9).

Subsec. (c)(1). Pub. L. 99-514, §1893(b)(4)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘vessel’ does not include any ferry.”

Subsec. (c)(5). Pub. L. 99-514, §1893(b)(4)(B), added par. (5).

Subsec. (d)(4). Pub. L. 99-514, §1893(c)(1), added par. (4).

Subsec. (e)(1). Pub. L. 99-514, §1893(d)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Notwithstanding section 1451 of this title or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States on scheduled airline flights at customs serviced airports shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (a) of this section) to airlines and airline passengers.”

Subsec. (e)(2). Pub. L. 99-509, §8101(c)(2), substituted “This subsection” for “Paragraph (1)” in par. (2) as amended by §1893 of Pub. L. 99-514 below.

Pub. L. 99-514, §1893(d)(2)(A), substituted “Paragraph (1)” for “this subsection”.

Subsec. (e)(3). Pub. L. 99-514, §1893(d)(2)(B), which directed the amendment of subsec. (e) by adding par. (3) at the end thereof, was executed by adding par. (3) after par. (2) as the probable intent of Congress in view of the intervening addition of par. (4) by Pub. L. 99-509.

Subsec. (e)(4). Pub. L. 99-509, §8101(c), added par. (4).

Subsec. (f)(3), (4). Pub. L. 99-509, §8101(d), added pars. (3) and (4).

Subsec. (g). Pub. L. 99-514, §1893(e), inserted provisions relating to regulations with respect to collection and remittance of fees.

Pub. L. 99-514, §2, substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (j)(1), (3). Pub. L. 99-509, §8101(e), substituted “otherwise provided in this subsection” for “provided in paragraph (2)” in par. (1) and added par. (3).

EFFECTIVE AND TERMINATION DATES OF 2011 AMENDMENT

Amendment by Pub. L. 112-43 effective Oct. 21, 2011, and applicable with respect to Panama on the date the United States-Panama Trade Promotion Agreement enters into force and to cease to be effective on the date the Agreement terminates, see section 107(b), (c) of Pub. L. 112-43, set out in a note under section 3805 of this title.

Amendment by section 204 of Pub. L. 112-42 effective Oct. 21, 2011, applicable with respect to Colombia on the date the United States-Columbia Trade Promotion Agreement enters into force, and to cease to be effective on the date the Agreement terminates, see section 107(b), (c) of Pub. L. 112-42, set out in a note under section 3805 of this title.

Amendment by section 601(a) of Pub. L. 112-42 applicable to passengers arriving from Canada, Mexico, or an adjacent island on or after the date that is 15 days after Oct. 21, 2011, see section 601(c) of Pub. L. 112-42, set out in a note under section 3805 of this title.

Amendment by Pub. L. 112-41 effective Oct. 21, 2011, and applicable with respect to Korea on the date the United States-Korea Free Trade Agreement enters into force (Mar. 15, 2012) and to cease to be effective on the date the Agreement terminates, see section 107(b), (c) of Pub. L. 112-41, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-227, title IV, §4001(b)(2), Aug. 11, 2010, 124 Stat. 2480, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the enactment of the Haiti Economic Lift Program Act of 2010 [Pub. L. 111-171].”

Pub. L. 111-210, §5, July 27, 2010, 124 Stat. 2257, provided that: “This joint resolution [amending this section and enacting provisions set out as notes under section 6655 of Title 26, Internal Revenue Code, and section 1701 of Title 50, War and National Defense] and the amendments made by this joint resolution shall take effect on the date of the enactment of this joint resolution [July 27, 2010] or July 26, 2010, whichever occurs earlier.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-42, title I, §104, July 28, 2009, 123 Stat. 1963, provided that: “This title [amending this section and enacting and amending provisions set out as notes under section 1701 of Title 50, War and National Defense] and the amendments made by this title shall take effect on the date of the enactment of this joint resolution [July 28, 2009] or July 26, 2009, whichever occurs first.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-287, §4, July 29, 2008, 122 Stat. 2649, provided that: “This joint resolution [amending this section and enacting provisions set out as notes under section 6655 of Title 26, Internal Revenue Code, and section 1701 of Title 50, War and National Defense] and the amendments made by this joint resolution shall take effect on the date of the enactment of this joint resolution [July 29, 2008] or July 26, 2008, whichever occurs first.”

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by Pub. L. 110-138 effective on the date on which the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date on which the Agreement terminates, see section 107(a), (c) of Pub. L. 110-138, set out in a note under section 3805 of this title.

Pub. L. 110-52, §5, Aug. 1, 2007, 121 Stat. 265, provided that: “This joint resolution [amending this section, enacting provisions set out as a note under section 1701 of Title 50, War and National Defense, and amending provisions set out as a note under section 6655 of Title 26, Internal Revenue Code] and the amendments made by this joint resolution shall take effect on the date of the enactment of this joint resolution [Aug. 1, 2007] or July 26, 2007, whichever occurs first.”

EFFECTIVE AND TERMINATION DATES OF 2006 AMENDMENT

Amendment by Pub. L. 109-283 effective on the date on which the United States-Oman Free Trade Agreement enters into force (Jan. 1, 2009) and to cease to be effective on the date on which the Agreement terminates, see section 107(a), (c) of Pub. L. 109-283, set out in a note under section 3805 of this title.

Pub. L. 109-280, title XIV, §1641, Aug. 17, 2006, 120 Stat. 1172, provided that: “Except as otherwise provided in this title [amending this section and sections 1466, 1484, 1514, 1520, 1557, 1559, 1562, 1629, 2155, 2317, 2401, 3807, and 4034 of this title, enacting provisions set out as notes under sections 1466, 1654, and 1675 of this title, and amending provisions set out as a note under section 7101 of Title 7, Agriculture], the amendments made by this title shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Aug. 17, 2006].”

Amendment by Pub. L. 109-169 effective on the date on which the United States-Bahrain Free Trade Agreement enters into force (Aug. 1, 2006) and to cease to be effective on the date on which the Agreement terminates, see section 106(a), (c) of Pub. L. 109-169, set out in a note under section 3805 of this title.

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by Pub. L. 109-53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States,

and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as an Effective and Termination Dates note under section 4001 of this title.

EFFECTIVE AND TERMINATION DATES OF 2004 AMENDMENT

Amendment by Pub. L. 108-286 effective on the date on which the United States-Australia Free Trade Agreement enters into force (Jan. 1, 2005) and to cease to be effective on the date on which the Agreement terminates, see section 106(a), (c) of Pub. L. 108-286, set out in a note under section 3805 of this title.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENTS

Amendment by Pub. L. 108-78 effective on the date the United States-Singapore Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108-78, set out in a note under section 3805 of this title.

Amendment by Pub. L. 108-77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108-77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Pub. L. 107-210, div. A, title III, §337(b), Aug. 6, 2002, 116 Stat. 980, provided that: “The amendments made by subsection (a) [amending this section] take effect on October 1, 2002.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-476, title I, §1471, Nov. 9, 2000, 114 Stat. 2174, provided that: “Except as otherwise provided in this title [enacting section 1308 of this title, amending this section, sections 1313, 1433, 1434, 1441, 1484, 1505, and 1555 of this title, section 69 of Title 15, Commerce and Trade, and section 91 of Title 46, Appendix, Shipping, and enacting provisions set out as notes under sections 1308, 1313, 1484, and 1654 of this title and section 1113 of Title 31, Money and Finance], the amendments made by this title shall apply with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after the date of the enactment of this Act [Nov. 9, 2000].”

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-36, title II, §2418(f), June 25, 1999, 113 Stat. 177, provided that: “The amendments made by this section [amending this section and section 1505 of this title] shall take effect 30 days after the date of the enactment of this Act [June 25, 1999].”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 4(b) of Pub. L. 104-295 provided that: “The amendments made by subsection (a) [amending this section] apply to—

“(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act [Oct. 11, 1996]; and

“(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if liquidation of the entry was not final before such 15th day.”

Section 38(d) of Pub. L. 104-295 provided that: “The amendments made by this section [amending this section] shall take effect as if included in the amendments made by section 521 of the North American Free Trade Agreement Implementation Act [Pub. L. 103-182].”

EFFECTIVE DATE OF 1994 AMENDMENT

Section 611(b) of Pub. L. 103-465 provided that: “The amendment made by this section [amending this sec-

tion] shall apply to customs inspectional services performed on or after January 1, 1994.”

Section 612(b) of Pub. L. 103-465 provided that: “The amendments made by this section [amending this section] apply to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1995.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 204 of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

Section 521(b) of Pub. L. 103-182 provided that: “The amendments made by this section [amending this section] shall take effect on the date the Agreement [North American Free Trade Agreement] enters into force with respect to the United States [Jan. 1, 1994].”

Section 692 of title VI of Pub. L. 103-182 provided that: “This title [see Tables for classification] takes effect on the date of the enactment of this Act [Dec. 8, 1993].”

EFFECTIVE DATE OF 1990 AMENDMENTS

Section 4(c) of Pub. L. 104-295 provided that: “The amendment made by section 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990 [Pub. L. 101-382, amending this section] shall apply to—

“(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act [Oct. 11, 1996]; and

“(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the liquidation of the entry was not final before such 15th day.”

Section 10001(g) of Pub. L. 101-508 provided that:

“(1) IN GENERAL.—The amendments made by subsections (b), (c), and (d) [amending this section and section 2082 of this title and amending provisions set out below] shall take effect on the date of the enactment of the Act providing full-year appropriations for the Customs Service for fiscal year 1992 [Pub. L. 102-141, Oct. 28, 1991, 105 Stat. 837], and shall apply to fiscal years beginning on and after October 1, 1991.

“(2) MERCHANDISE PROCESSING FEES FOR SMALL AIRPORTS.—The amendments made by subsection (e) [amending this section] shall take effect as if included in section 111 of the Customs and Trade Act of 1990 [Pub. L. 101-382, set out below].

“(3) MANUAL ENTRIES AND RELEASES.—The amendment made by subsection (f) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990].”

Section 115 of Pub. L. 101-382 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this subtitle [subtitle B (§§111-115) of title I of Pub. L. 101-382, enacting section 2082 of this title, amending this section, and enacting provisions set out as notes below], and the amendments made by this subtitle, take effect October 1, 1990, but the amendment made by section 111(b)(1) [amending this section] applies with respect to railroad cars arriving in the United States on or after July 7, 1986.

“(b) EXCEPTIONS.—The amendment made by section 111(d) [amending this section], and section 112 [enacting provisions set out below], take effect on the date of the enactment of this Act [Aug. 20, 1990].”

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

Section 9001(b) of Pub. L. 100-647 provided that: “The amendments made by this section [amending this section, sections 1330, 1332, 1337, 1671, 1677-2, 2131, 2138, 2212, 2253, 2254, 2296, and 2703 of this title, and provisions set out as notes under sections 1507, 1671, and 2397 of this title] shall be applied as if such amendments took effect on August 23, 1988.”

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9501(d) of Pub. L. 100-203 provided that:

“(1) Except as otherwise provided in this subsection, the provisions of this section [amending this section, enacting provisions set out as a note under section 3 of this title, and amending provisions set out below] take effect on the date of the enactment of this Act [Dec. 22, 1987].

“(2) The amendments made by subsection (a)(1) [amending this section] apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

“(3) The amendment made by subsection (a)(3) [amending this section] shall take effect on October 1, 1987.”

EFFECTIVE DATE OF 1986 AMENDMENT; REFUNDS

Section 1893(g) of Pub. L. 99-514, as amended by Pub. L. 100-203, title IX, §9501(b), Dec. 22, 1987, 101 Stat. 1330-379, provided that:

“(1) The amendments made by this section [amending this section and section 1741 of former Title 49, Transportation, and enacting provisions set out below] shall apply with respect to services rendered after the date that is 15 days after the date of enactment of this Act [Oct. 22, 1986].

“(2) Upon written request filed by any person with the Secretary of the Treasury (hereafter in this subsection referred to as the ‘Secretary’) before the date that is 90 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1987 [Dec. 22, 1987] which is accompanied by such documentation establishing proof of payment as the Secretary may require, the Secretary shall refund (out of funds in the Treasury of the United States not otherwise appropriated) to such person an amount equal to the excess of—

“(A) the amount of fees imposed by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 [this section] that were paid by such person to the Secretary with respect to customs services provided—

“(i) after July 6, 1986, and

“(ii) on or before the date that is 15 days after the date of enactment of this Act, over

“(B) the amount of fees such person would have been required to pay to the Secretary by reason of such section with respect to such services if the amendments made by subsections (a)(1) and (b) [amending this section] applied with respect to such services.

“(3) If the customs broker permit fee paid by any person for calendar year 1986 under section 13031(a)(7) of the Consolidated Omnibus Budget Reconciliation Act of 1985 exceeds \$62.50, the Secretary shall either—

“(A) refund (out of funds in the Treasury of the United States not otherwise appropriated) to such person the amount of the excess, or

“(B) if requested by such person, credit the amount of the excess to the fee due under such section 13031(a)(7) with respect to such permit for calendar year 1987.”

CONSTRUCTION OF 1993 AMENDMENT

Section 212 of title II of Pub. L. 103-182 provided that: “Any amendment in this title [amending this section

and sections 81c, 1304, 1311 to 1313, 1508, 1509, 1514, 1520, 1562, 1592, and 1628 of this title) to a law that is also amended under title VI [see Tables for classification] shall be made after the title VI amendment is executed.”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

RATES FOR MERCHANDISE PROCESSING FEES

Pub. L. 112-40, § 2, Oct. 21, 2011, 125 Stat. 402, provided that: “For the period beginning on October 1, 2011, and ending on June 30, 2014, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

“(1) in subparagraph (A), by substituting ‘0.3464’ for ‘0.21’; and

“(2) in subparagraph (B)(i), by substituting ‘0.3464’ for ‘0.21’.”

Pub. L. 112-40, title II, § 262, Oct. 21, 2011, 125 Stat. 426, provided that:

“(a) FEES FOR PERIOD FROM JULY 1, 2014, TO NOVEMBER 30, 2015.—For the period beginning on July 1, 2014, and ending on November 30, 2015, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

“(1) in subparagraph (A), by substituting ‘0.3464’ for ‘0.21’; and

“(2) in subparagraph (B)(i), by substituting ‘0.3464’ for ‘0.21’.”

“(b) FEES FOR PERIOD FROM OCTOBER 1, 2016, TO SEPTEMBER 30, 2019.—For the period beginning on October 1, 2016, and ending on September 30, 2019, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

“(1) in subparagraph (A), by substituting ‘0.1740’ for ‘0.21’; and

“(2) in subparagraph (B)(i), by substituting ‘0.1740’ for ‘0.21’.”

[For additional application and administration of subsec. (a)(9) of this section for period beginning on Dec. 1, 2015, and ending on June 30, 2021, see section 503 of Pub. L. 112-41, set out in a note under section 3805 of this title.]

TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES

Pub. L. 112-40, title II, § 263, Oct. 21, 2011, 125 Stat. 426, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, any fees authorized under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9) and (10)) with respect to processing merchandise entered on or after October 1, 2012, and before November 12, 2012, shall be paid not later than September 25, 2012, in an amount equivalent to the amount of such fees paid by the person responsible for such fees with respect to merchandise entered on or after October 1, 2011, and before November 12, 2011, as determined by the Secretary of the Treasury.

“(b) RECONCILIATION OF MERCHANDISE PROCESSING FEES.—

“(1) IN GENERAL.—Not later than December 12, 2012, the Secretary of the Treasury shall reconcile the fees paid pursuant to subsection (a) with the fees for services actually provided on or after October 1, 2012, and before November 12, 2012.

“(2) REFUNDS OF OVERPAYMENTS.—

“(A) After making the reconciliation required under paragraph (1), the Secretary of the Treasury shall refund with interest any overpayment of such fees made under subsection (a) and make proper adjustments with respect to any underpayment of such fees.

“(B) No interest may be assessed with respect to any such underpayment that was based on the amount of fees paid for merchandise entered on or after October 1, 2012, and before November 12, 2012.”

Pub. L. 110-234, title XV, § 15201(c), (d), May 22, 2008, 122 Stat. 1500, and Pub. L. 110-246, § 4(a), title XV, § 15201(c), (d), June 18, 2008, 122 Stat. 1664, 2262, prescribed times for remitting certain fees authorized by subsec. (a) of this section and required the Secretary of the Treasury to reconcile the payment of certain merchandise processing fees with services actually provided, prior to repeal by Pub. L. 110-436, § 5(b), Oct. 16, 2008, 122 Stat. 4981.

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

SENSE OF CONGRESS

Pub. L. 108-357, title VIII, § 892(c)(1), Oct. 22, 2004, 118 Stat. 1645, provided that: “The Congress finds that—

“(A) the fees set forth in paragraphs (1) through (8) of subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 [19 U.S.C. 58c] have been reasonably related to the costs of providing customs services in connection with the activities or items for which the fees have been charged under such paragraphs; and

“(B) the fees collected under such paragraphs have not exceeded, in the aggregate, the amounts paid for the costs described in subsection (f)(3)(A) [probably means 19 U.S.C. 58c(f)(3)(A)] incurred in providing customs services in connection with the activities or items for which the fees were charged under such paragraphs.”

AGGREGATION OF MERCHANDISE PROCESSING FEES

Section 111(f) of Pub. L. 101-382, as amended by Pub. L. 101-508, title X, § 10001(c), Nov. 5, 1990, 104 Stat. 1388-386, provided that:

“(1) Notwithstanding any provision of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c), in the case of entries of merchandise made under the temporary monthly entry programs established by the Commissioner of Customs before July 1, 1989, for the purpose of testing entry processing improvements, the fee charged under section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 for each day’s importations at each port by the same importer from the same exporter shall be the lesser of—

“(A) \$400, or

“(B) the amount determined by applying the ad valorem rate currently in effect under such section 13031(a)(9) to the total value of each day’s importations at each port by the same importer from the same exporter.

“(2) The fees described in paragraph (1) that are payable under the program described in paragraph (1) shall be paid with each monthly consumption entry. Interest shall accrue on the fees paid monthly in accordance with section 6621 of the Internal Revenue Code of 1986 [26 U.S.C. 6621].”

EXEMPTION OF ISRAELI PRODUCTS FROM CERTAIN USER FEES

Section 112 of Pub. L. 101-382 provided that: “If the United States Trade Representative determines that the Government of Israel has provided reciprocal concessions in exchange for the exemption of the products of Israel from the fees imposed under section 13031(a)(9) and (10) of the Consolidated Omnibus Budget Reconcili-

ation Act of 1985 [19 U.S.C. 58c(a)(9), (10)] (as amended by section 111), such fees may not be charged with respect to any product of Israel that is entered, or withdrawn from warehouse for consumption, on or after the 15th day (which day may not be before October 1, 1990) after the date on which the determination is published in the Federal Register.”

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1801–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

FEE FOR CUSTOMS BROKER PERMIT FOR 1986; REINSTATEMENT OF REVOKED OR SUSPENDED CUSTOMS BROKERS' LICENSES AND PERMITS

Section 1893(c)(2), (3) of Pub. L. 99–514 provided that: “(2) Notwithstanding section 13031(a)(7) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(7)), the fee imposed by section 13031(a) of such Act with respect to each customs broker permit held by an individual, partnership, association, or corporate customs broker for calendar year 1986 is \$62.50.

“(3)(A) The Secretary of the Treasury shall reinstate any customs broker's license or customs broker permit issued under subsection (b) or (c) of section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) that was suspended or revoked on or before the date of enactment of this Act [Oct. 22, 1986] solely by reason of nonpayment of the fee imposed by section 13031(a)(7) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

“(B) Notwithstanding any other provision of law, the Secretary of the Treasury may not suspend or revoke any customs broker permit issued under section 641(c) of the Tariff Act of 1930 (19 U.S.C. 1641(c)) solely by reason of nonpayment of the fee imposed by section 13031(a)(7) of the Consolidated Omnibus Budget Reconciliation Act of 1985 before the date that is 60 days after the date of enactment of this Act [Oct. 22, 1986].”

§ 59. Repealed. Aug. 2, 1956, ch. 887, § 4(a)(21), 70 Stat. 947

Section, R.S. § 2635; act June 17, 1930, ch. 497, title IV, § 523, 46 Stat. 740, required posting of a table of fees.

§ 60. Penalty for extortion

Every officer of the customs who demands or receives any other or greater fee, compensation, or reward than is allowed by law, for performing any duty or service required from him by law, shall be liable to a penalty of \$200 for each offense, recoverable to the use of the party aggrieved.

(R.S. § 2636.)

CODIFICATION

R.S. § 2636 derived from act Mar. 2, 1799, ch. 22, § 73, 1 Stat. 680.

§§ 61, 62. Repealed. Aug. 2, 1956, ch. 887, § 4(a)(22), (23), 70 Stat. 947

Section 61, R.S. § 2580, related to reports by inspectors on routes by which goods withdrawn from bonded warehouse could be exported to Mexico.

Section 62, acts Dec. 18, 1890, ch. 22, 26 Stat. 690; June 17, 1930, ch. 497, title IV, § 523, 46 Stat. 740, related to suspension for neglect or delinquency of officers or employees. See chapter 75 of Title 5, Government Organi-

zation and Employees, and Office of Personnel Management regulations.

§ 63. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 636

Section, act Aug. 28, 1890, ch. 812, §§ 1, 2, 26 Stat. 362, provided for leaves of absence of officers and employees in customs service who receive per diem compensation.

Section was additionally repealed by Pub. L. 91–271, title III, § 321(k), June 2, 1970, 84 Stat. 293.

§ 64. Laws imposing fines applicable to persons acting under customs laws

All Acts and parts of Acts imposing fines, penalties, or other punishment for offenses committed by an internal revenue officer or other officer of the Department of the Treasury of the United States, or under any bureau thereof, shall apply to all persons whomsoever, employed, appointed, or acting under the authority of any customs law, when such persons are designated or acting as officers or deputies, or persons having the custody or disposition of any public money.

(Feb. 8, 1875, ch. 36, § 23 (part), 18 Stat. 312.)

CODIFICATION

Section is based on section 23 (as related to persons acting under any customs law) of act Feb. 8, 1875. Provisions of section 23 (as related to persons acting under any internal revenue law or any revenue provisions of any law of the United States) were repealed effective Feb. 11, 1939, by section 4 of act Feb. 10, 1939 (53 Stat. 1) and incorporated as section 4048 of Title 26, Internal Revenue Code of 1939. The Internal Revenue Code of 1939 was repealed by the Internal Revenue Code of 1954. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095. Provisions of former section 4048 are covered by section 7344 of Title 26, Internal Revenue Code.

§ 66. Rules and forms prescribed by Secretary

The Secretary of the Treasury shall prescribe forms of entries, oaths, bonds, and other papers, and rules and regulations not inconsistent with law, to be used in carrying out the provisions of law relating to raising revenue from imports, or to duties on imports, or to warehousing, and shall give such directions to customs officers and prescribe such rules and forms to be observed by them as may be necessary for the proper execution of the law.

(R.S. § 251 (part); Pub. L. 91–271, title III, § 308, June 2, 1970, 84 Stat. 292.)

CODIFICATION

R.S. § 251 derived from acts Feb. 10, 1830, ch. 11, §§ 14, 15, 3 Stat. 543; Aug. 6, 1846, ch. 84, § 5, 9 Stat. 55; May 14, 1856, Res. 9, 11 Stat. 144; June 30, 1864, ch. 172, § 8, 13 Stat. 221; July 14, 1870, ch. 255, § 34, 16 Stat. 271. R.S. § 251, which was also classified in part to section 427 of former Title 31, was repealed in part and reenacted as section 321(a)(5) of Title 31, Money and Finance, by Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067.

AMENDMENTS

1970—Pub. L. 91–271 substituted reference to customs officers for reference to collectors.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–271 effective with respect to articles entered, or withdrawn from warehouse for