

tronically file all such information that the Customs Service can accept electronically.

**(B) Alternative filing**

If the Customs Service cannot accept additional information electronically, the Program participant shall file the paper documentation with respect to the information at the appropriate filing location.

**(C) Appropriate location**

For purposes of subparagraph (B), the “appropriate location” is—

(i) before January 1, 1999, a designated location; and

(ii) after December 31, 1998—

(I) if the paper documentation is required for release, a designated location; or

(II) if the paper documentation is not required for release, a remote location designated by the Customs Service or a designated location.

**(D) Other**

A Program participant that is eligible under paragraph (1) to file additional information electronically from a remote location but chooses not to do so must file the paper documentation with respect to the information at a designated location.

**(c) Post-entry summary information**

A Program participant that is eligible to file electronically entry information under subsection (a) and additional information under subsection (b) from a remote location may file at any remote location designated by the Customs Service any information required by the Customs Service after entry summary.

**(d) Definitions**

As used in this section:

(1) The term “designated location” means a customs office located in the customs district designated by the entry filer for purposes of customs examination of the merchandise.

(2) The term “Program participant” means, with respect to an entry of merchandise, any party entitled to make the entry under section 1484(a)(2)(B) of this title.

(June 17, 1930, ch. 497, title IV, § 414, as added Pub. L. 103-182, title VI, § 631(2), Dec. 8, 1993, 107 Stat. 2191.)

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. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

**§ 1415. Mandatory advance electronic information for cargo and other improved customs reporting procedures**

**(a) Cargo information**

**(1) In general**

(A) Subject to paragraphs (2) and (3), the Secretary is authorized to promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo to be brought into the United States or to be sent from the United States, prior to the arrival or departure of the cargo.

(B) The Secretary shall endeavor to promulgate an initial set of regulations under subparagraph (A) not later than October 1, 2003.

**(2) Information required**

The cargo information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information on cargo as the Secretary determines to be reasonably necessary to ensure cargo safety and security pursuant to those laws enforced and administered by the Customs Service. The Secretary shall provide to appropriate Federal departments and agencies cargo information obtained pursuant to paragraph (1).

**(3) Parameters**

In developing regulations pursuant to paragraph (1), the Secretary shall adhere to the following parameters:

(A) The Secretary shall solicit comments from and consult with a broad range of parties likely to be affected by the regulations, including importers, exporters, carriers, customs brokers, and freight forwarders, among other interested parties.

(B) In general, the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information. Where requiring information from the party with direct knowledge of that information is not practicable, the regulations shall take into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true.

(C) The Secretary shall take into account the existence of competitive relationships among the parties on which requirements to provide particular information are imposed.

(D) Where the regulations impose requirements on carriers of cargo, they shall take into account differences among different modes of transportation, including differences in commercial practices, operational characteristics, and technological capacity to collect and transmit information electronically.

(E) The regulations shall take into account the extent to which the technology

necessary for parties to transmit and the Customs Service to receive and analyze data in a timely fashion is available. To the extent that the Secretary determines that the necessary technology will not be widely available to particular modes of transportation or other affected parties until after promulgation of the regulations, the regulations shall provide interim requirements appropriate for the technology that is available at the time of promulgation.

(F) The information collected pursuant to the regulations shall be used exclusively for ensuring cargo safety and security, preventing smuggling, and commercial risk assessment targeting, and shall not be used for any commercial enforcement purposes, including for determining merchandise entry. Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 [19 U.S.C. 1401 et seq.] or regulations promulgated thereunder.

(G) The regulations shall protect the privacy of business proprietary and any other confidential cargo information provided to the Customs Service pursuant to such regulations, except for the manifest information collected pursuant to section 431 of the Tariff Act of 1930 [19 U.S.C. 1431] and required to be available for public disclosure pursuant to section 431(c) of such Act.<sup>1</sup>

(H) In determining the timing for transmittal of any information, the Secretary shall balance likely impact on flow of commerce with impact on cargo safety and security. With respect to requirements that may be imposed on carriers of cargo, the timing for transmittal of information shall take into account differences among different modes of transportation, as described in subparagraph (D).

(I) Where practicable, the regulations shall avoid imposing requirements that are redundant with one another or that are redundant with requirements in other provisions of law.

(J) The Secretary shall determine whether it is appropriate to provide transition periods between promulgation of the regulations and the effective date of the regulations and shall prescribe such transition periods in the regulations, as appropriate. The Secretary may determine that different transition periods are appropriate for different classes of affected parties.

(K)(i) The Secretary shall prescribe regulations requiring the United States Postal Service to transmit the information described in paragraphs (1) and (2) to the Commissioner of U.S. Customs and Border Protection for international mail shipments by the Postal Service (including shipments to the Postal Service from foreign postal operators that are transported by private carrier) consistent with the requirements of this subparagraph.

(ii) In prescribing regulations under clause (i), the Secretary shall impose requirements

for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) that are comparable to the requirements for the transmission of such information imposed on similar non-mail shipments of cargo, taking into account the parameters set forth in subparagraphs (A) through (J).

(iii) The regulations prescribed under clause (i) shall require the transmission of the information described in paragraphs (1) and (2) with respect to a shipment as soon as practicable in relation to the transportation of the shipment, consistent with subparagraph (H).

(iv) Regulations prescribed under clause (i) shall allow for the requirements for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) to be implemented in phases, as appropriate, by—

(I) setting incremental targets for increasing the percentage of such shipments for which information is required to be transmitted to the Commissioner; and

(II) taking into consideration—

(aa) the risk posed by such shipments;

(bb) the volume of mail shipped to the United States by or through a particular country; and

(cc) the capacities of foreign postal operators to provide that information to the Postal Service.

(v)(I) Notwithstanding clause (iv), the Postal Service shall, not later than December 31, 2018, arrange for the transmission to the Commissioner of the information described in paragraphs (1) and (2) for not less than 70 percent of the aggregate number of mail shipments, including 100 percent of mail shipments from the People's Republic of China, described in clause (i).

(II) If the requirements of subclause (I) are not met, the Comptroller General of the United States shall submit to the appropriate congressional committees, not later than June 30, 2019, a report—

(aa) assessing the reasons for the failure to meet those requirements; and

(bb) identifying recommendations to improve the collection by the Postal Service of the information described in paragraphs (1) and (2).

(vi)(I) Notwithstanding clause (iv), the Postal Service shall, not later than December 31, 2020, arrange for the transmission to the Commissioner of the information described in paragraphs (1) and (2) for 100 percent of the aggregate number of mail shipments described in clause (i).

(II) The Commissioner, in consultation with the Postmaster General, may determine to exclude a country from the requirement described in subclause (I) to transmit information for mail shipments described in clause (i) from the country if the Commissioner determines that the country—

(aa) does not have the capacity to collect and transmit such information;

<sup>1</sup> So in original.

(bb) represents a low risk for mail shipments that violate relevant United States laws and regulations; and

(cc) accounts for low volumes of mail shipments that can be effectively screened for compliance with relevant United States laws and regulations through an alternate means.

(III) The Commissioner shall, at a minimum on an annual basis, re-evaluate any determination made under subclause (II) to exclude a country from the requirement described in subclause (I). If, at any time, the Commissioner determines that a country no longer meets the requirements under subclause (II), the Commissioner may not further exclude the country from the requirement described in subclause (I).

(IV) The Commissioner shall, on an annual basis, submit to the appropriate congressional committees—

(aa) a list of countries with respect to which the Commissioner has made a determination under subclause (II) to exclude the countries from the requirement described in subclause (I); and

(bb) information used to support such determination with respect to such countries.

(vii)(I) The Postmaster General shall, in consultation with the Commissioner, refuse any shipments received after December 31, 2020, for which the information described in paragraphs (1) and (2) is not transmitted as required under this subparagraph, except as provided in subclause (II).

(II) If remedial action is warranted in lieu of refusal of shipments pursuant to subclause (I), the Postmaster General and the Commissioner shall take remedial action with respect to the shipments, including destruction, seizure, controlled delivery or other law enforcement initiatives, or correction of the failure to provide the information described in paragraphs (1) and (2) with respect to the shipments.

(viii) Nothing in this subparagraph shall be construed to limit the authority of the Secretary to obtain information relating to international mail shipments from private carriers or other appropriate parties.

(ix) In this subparagraph, the term “appropriate congressional committees” means—

(I) the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(II) the Committee on Ways and Means, the Committee on Oversight and Government Reform, and the Committee on Homeland Security of the House of Representatives.

(L) Not later than 15 days prior to publication of a final rule pursuant to this section, the Secretary shall transmit to the Committees on Finance and Commerce, Science, and Transportation of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report setting forth—

(i) the proposed regulations;

(ii) an explanation of how particular requirements in the proposed regulations meet the needs of cargo safety and security;

(iii) an explanation of how the Secretary expects the proposed regulations to affect the commercial practices of affected parties;

(iv) an explanation of how the proposed regulations address particular comments received from interested parties; and

(v) if the Secretary determines to amend the proposed regulations after they have been transmitted to the Committees pursuant to this subparagraph, the Secretary shall transmit the amended regulations to such Committees no later than 5 days prior to the publication of the final rule.

#### **(4) Transmission of data**

Pursuant to paragraph (2), not later than 1 year after August 10, 2005, the Secretary of Homeland Security, after consultation with the Secretary of the Treasury, shall establish an electronic data interchange system through which the United States Customs and Border Protection shall transmit to the Internal Revenue Service information pertaining to cargoes of any taxable fuel (as defined in section 4083 of title 26) that the United States Customs and Border Protection has obtained electronically under its regulations adopted in accordance with paragraph (1). For this purpose, not later than 1 year after August 10, 2005, all filers of required cargo information for such taxable fuels (as so defined) must provide such information to the United States Customs and Border Protection through such electronic data interchange system.

#### **(5) Capacity building**

##### **(A) In general**

The Secretary, with the concurrence of the Secretary of State, and in coordination with the Postmaster General and the heads of other Federal agencies, as appropriate, may provide technical assistance, equipment, technology, and training to enhance the capacity of foreign postal operators—

(i) to gather and provide the information required by paragraph (3)(K); and

(ii) to otherwise gather and provide postal shipment information related to—

(I) terrorism;

(II) items the importation or introduction of which into the United States is prohibited or restricted, including controlled substances; and

(III) such other concerns as the Secretary determines appropriate.

##### **(B) Provision of equipment and technology**

With respect to the provision of equipment and technology under subparagraph (A), the Secretary may lease, loan, provide, or otherwise assist in the deployment of such equipment and technology under such terms and conditions as the Secretary may prescribe, including nonreimbursable loans or the transfer of ownership of equipment and technology.

**(b) Omitted****(c) Secretary**

For purposes of this section, the term “Secretary” means the Secretary of the Treasury. If, at the time the regulations required by subsection (a)(1) are promulgated, the Customs Service is no longer located in the Department of the Treasury, then the Secretary of the Treasury shall exercise the authority under subsection (a) jointly with the Secretary of the Department in which the Customs Service is located.

(Pub. L. 107–210, div. A, title III, §343, Aug. 6, 2002, 116 Stat. 981; Pub. L. 107–295, title I, §108(b), Nov. 25, 2002, 116 Stat. 2089; Pub. L. 109–59, title XI, §11165(a), Aug. 10, 2005, 119 Stat. 1976; Pub. L. 114–125, title I, §111(c), Feb. 24, 2016, 130 Stat. 140; Pub. L. 115–271, title VIII, §8003(a)(1), (b)(1), (e), Oct. 24, 2018, 132 Stat. 4074, 4076, 4079.)

## REFERENCES IN TEXT

The Tariff Act of 1930, referred to in subsec. (a)(3)(F), is act June 17, 1930, ch. 497, 46 Stat. 590. Title IV of the Act is classified generally to this subtitle. For complete classification of this Act to the Code, see section 1654 of this title and Tables.

## CODIFICATION

Subsections (a) and (c) of this section were formerly set out as a note under section 2071 of this title.

Section was enacted as part of the Customs Border Security Act of 2002, and also as part of the Trade Adjustment Assistance Reform Act of 2002 and as part of the Trade Act of 2002, and not as part of the Tariff Act of 1930 which comprises this chapter.

Section is comprised of section 343 of Pub. L. 107–210. Subsec. (b) of section 343 of Pub. L. 107–210 enacted section 1431a of this title.

## AMENDMENTS

2018—Pub. L. 115–271, §8003(e), substituted “advance” for “advanced” in section catchline.

Subsec. (a)(3)(K). Pub. L. 115–271, §8003(a)(1), amended subpar. (K) generally. Prior to amendment, subpar. (K) read as follows: “With respect to requirements imposed on carriers, the Secretary, in consultation with the Postmaster General, shall determine whether it is appropriate to impose the same or similar requirements on shipments by the United States Postal Service. If the Secretary determines that such requirements are appropriate, then they shall be set forth in the regulations.”

Subsec. (a)(5). Pub. L. 115–271, §8003(b)(1), added par. (5).

2016—Subsec. (a)(3)(F). Pub. L. 114–125 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “The information collected pursuant to the regulations shall be used exclusively for ensuring cargo safety and security and preventing smuggling, and shall not be used for determining merchandise entry or for any other commercial enforcement purposes. Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 or regulations promulgated thereunder.”

2005—Subsec. (a)(4). Pub. L. 109–59 added par. (4).

2002—Subsec. (a)(1). Pub. L. 107–295, §108(b)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “Subject to paragraphs (2) and (3), not later than 1 year after August 6, 2002, the Secretary shall promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo destined for importation into the United States or exportation from the United States, prior to such importation or exportation.”

Subsec. (a)(2). Pub. L. 107–295, §108(b)(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information as the Secretary determines to be reasonably necessary to ensure aviation, maritime, and surface transportation safety and security pursuant to those laws enforced and administered by the Customs Service.”

Subsec. (a)(3)(F). Pub. L. 107–295, §108(b)(3)(A), (B), substituted “cargo safety and security” for “aviation, maritime, and surface transportation safety and security”, inserted “and preventing smuggling” after “security” and “merchandise” after “determining”, and inserted at end “Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 or regulations promulgated thereunder.”

Subsec. (a)(3)(G). Pub. L. 107–295, §108(b)(3)(C), inserted “cargo” after “confidential” and “pursuant to such regulations, except for the manifest information collected pursuant to section 431 of the Tariff Act of 1930 and required to be available for public disclosure pursuant to section 431(c) of such Act.” after “Customs Service” and struck out at end “However, this parameter does not repeal, amend, or otherwise modify other provisions of law relating to the public disclosure of information transmitted to the Customs Service.”

Subsec. (a)(3)(H). Pub. L. 107–295, §108(b)(3)(A), substituted “cargo safety and security” for “aviation, maritime, and surface transportation safety and security”.

Subsec. (a)(3)(L). Pub. L. 107–295, §108(b)(3)(D)(i)(II), which directed the substitution of “publication of a final rule pursuant to this section” for “promulgation of regulations” in introductory provisions, was executed by making the substitution for “promulgation of the regulations” to reflect the probable intent of Congress.

Pub. L. 107–295, §108(b)(3)(D)(i)(I), substituted “15 days” for “60 days” in introductory provisions.

Subsec. (a)(3)(L)(ii). Pub. L. 107–295, §108(b)(3)(A), substituted “cargo safety and security” for “aviation, maritime, and surface transportation safety and security”.

Subsec. (a)(3)(L)(v). Pub. L. 107–295, §108(b)(3)(D)(ii)–(iv), added cl. (v).

## EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title XI, §11165(b), Aug. 10, 2005, 119 Stat. 1976, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 2005].”

## INTERNATIONAL POSTAL AGREEMENTS

Pub. L. 115–271, title VIII, §8004, Oct. 24, 2018, 132 Stat. 4079, provided that:

“(a) EXISTING AGREEMENTS.—

“(1) IN GENERAL.—In the event that any provision of this subtitle [subtitle A (§§8001–8009) of title VIII of Pub. L. 115–271, see Short Title of 2018 Amendment note set out under section 1 of this title], or any amendment made by this subtitle, is determined to be in violation of obligations of the United States under any postal treaty, convention, or other international agreement related to international postal services, or any amendment to such an agreement, the Secretary of State should negotiate to amend the relevant provisions of the agreement so that the United States is no longer in violation of the agreement.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to permit delay in the implementation of this subtitle or any amendment made by this subtitle.

“(b) FUTURE AGREEMENTS.—

“(1) CONSULTATIONS.—Before entering into, on or after the date of the enactment of this Act [Oct. 24,

2018], any postal treaty, convention, or other international agreement related to international postal services, or any amendment to such an agreement, that is related to the ability of the United States to secure the provision of advance electronic information by foreign postal operators, the Secretary of State should consult with the appropriate congressional committees (as defined in section 8003(f)) [Committee on Finance and Committee on Homeland Security and Governmental Affairs of the Senate and Committee on Ways and Means, Committee on Oversight and Government Reform, and Committee on Homeland Security of the House of Representatives].

“(2) EXPEDITED NEGOTIATION OF NEW AGREEMENT.—To the extent that any new postal treaty, convention, or other international agreement related to international postal services would improve the ability of the United States to secure the provision of advance electronic information by foreign postal operators as required by regulations prescribed under section 343(a)(3)(K) of the Trade Act of 2002 [19 U.S.C. 1415(a)(3)(K)], as amended by section 8003(a)(1), the Secretary of State should expeditiously conclude such an agreement.”

#### COST RECOUPMENT

Pub. L. 115–271, title VIII, § 8005, Oct. 24, 2018, 132 Stat. 4079, provided that:

“(a) IN GENERAL.—The United States Postal Service shall, to the extent practicable and otherwise recoverable by law, ensure that all costs associated with complying with this subtitle [subtitle A (§§ 8001–8009) of title VIII of Pub. L. 115–271, see Short Title of 2018 Amendment note set out under section 1 of this title] and amendments made by this subtitle are charged directly to foreign shippers or foreign postal operators.

“(b) COSTS NOT CONSIDERED REVENUE.—The recovery of costs under subsection (a) shall not be deemed revenue for purposes of subchapter I and II of chapter 36 of title 39, United States Code, or regulations prescribed under that chapter.”

#### PART II—REPORT, ENTRY, AND UNLOADING OF VESSELS AND VEHICLES

### § 1431. Manifests

#### (a) In general

Every vessel required to make entry under section 1434 of this title or obtain clearance under section 60105 of title 46 shall have a manifest that complies with the requirements prescribed under subsection (d).

#### (b) Production of manifest

Any manifest required by the Customs Service shall be signed, produced, delivered or electronically transmitted by the master or person in charge of the vessel, aircraft, or vehicle, or by any other authorized agent of the owner or operator of the vessel, aircraft, or vehicle in accordance with the requirements prescribed under subsection (d). A manifest may be supplemented by bill of lading data supplied by the issuer of such bill. If any irregularity of omission or commission occurs in any way in respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft or vehicle, or any party responsible for such irregularity, shall be liable for any fine or penalty prescribed by law with respect to such irregularity. The Customs Service may take appropriate action against any of the parties.

#### (c) Public disclosure of certain manifest information

(1) Except as provided in subparagraph (2), the following information, when contained in a ves-

sel vessel<sup>1</sup> or aircraft manifest, shall be available for public disclosure:

(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

(B) The general character of the cargo.

(C) The number of packages and gross weight.

(D) The name of the vessel, aircraft, or carrier.

(E) The seaport or airport of loading.

(F) The seaport or airport of discharge.

(G) The country of origin of the shipment.

(H) The trademarks appearing on the goods or packages.

(2) The information listed in paragraph (1) shall not be available for public disclosure if—

(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

(B) the information is exempt under the provisions of section 552(b)(1) of title 5.

(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.

#### (d) Regulations

##### (1) In general

The Secretary shall by regulation—

(A) specify the form for, and the information and data that must be contained in, the manifest required by subsection (a);

(B) allow, at the option of the individual producing the manifest and subject to paragraph (2), letters and documents shipments to be accounted for by summary manifesting procedures;

(C) prescribe the manner of production for, and the delivery for electronic transmittal of, the manifest required by subsection (a); and

(D) prescribe the manner for supplementing manifests with bill of lading data under subsection (b).

##### (2) Letters and documents shipments

For purposes of paragraph (1)(B)—

(A) the Customs Service may require with respect to letters and documents shipments—

(i) that they be segregated by country of origin, and

(ii) additional examination procedures that are not necessary for individually manifested shipments;

(B) standard letter envelopes and standard document packs shall be segregated from

<sup>1</sup> So in original.