

## AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-295 made technical amendment to reference in original act which appears in text as reference to December 8, 1993.

## 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.

**§ 1414. Remote location filing****(a) Core entry information****(1) In general**

A Program participant may file electronically an entry of merchandise with the Customs Service from a location other than the district designated in the entry for examination (hereafter in this section referred to as a “remote location”) if—

(A) the Customs Service is satisfied that the participant has the capabilities referred to in paragraph (2)(A) regarding such method of filing; and

(B) the participant elects to file from the remote location.

**(2) Requirements****(A) In general**

In order to qualify for filing from a remote location, a Program participant must have the capability to provide, on an entry-by-entry basis, for the following:

- (i) The electronic entry of merchandise.
- (ii) The electronic entry summary of required information.
- (iii) The electronic transmission of invoice information (when required by the Customs Service).
- (iv) The electronic payment of duties, fees, and taxes.
- (v) Such other electronic capabilities within the existing or planned components of the Program as the Secretary shall by regulation require.

**(B) Restriction on exemption from requirements**

The Customs Service may not permit any exemption or waiver from the requirements established by this section for participation in remote entry filing.

**(3) Conditions on filing under this section**

The Secretary may prohibit a Program participant from participating in remote location filing, and may remove a Program participant from participation in remote location filing, if the participant—

- (i) fails to meet all the compliance requirements and operational standards of remote location filing; or

- (ii) fails to adhere to all applicable laws and regulations.

**(4) Alternative filing**

Any Program participant that is eligible to file entry information electronically from a remote location but chooses not to do so in the case of any entry must file any paper documentation for the entry at the designated location referred to in subsection (d).

**(b) Additional entry information****(1) In general**

A Program participant that is eligible under subsection (a) to file entry information from a remote location may, if the Customs Service is satisfied that the participant meets the requirements under paragraph (2), also electronically file from the remote location additional information that is required by the Customs Service to be presented before the acceptance of entry summary information and at the time of acceptance of entry summary information.

**(2) Requirements**

The Secretary shall publish, and periodically update, a list of those capabilities within the existing and planned components of the Program that a Program participant must have for purposes of this subsection.

**(3) Filing of additional information****(A) If information electronically acceptable**

A Program participant that is eligible under paragraph (1) to file additional information from a remote location shall electronically 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.)

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**§ 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 par-

ties 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

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