



## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### **Section 321 Data Pilot: Modification of Data Elements, Expansion of Pilot to Include Additional Test Participants, and Extension of Pilot**

**AGENCY:** U.S. Customs and Border Protection; Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This notice announces that U.S. Customs and Border Protection (CBP) is modifying the Section 321 Data Pilot by adding optional data elements that may be submitted by any participant. CBP is also expanding the Section 321 Data Pilot to accept applications for additional participants in this test from all parties that meet the eligibility requirements. This notice also announces that CBP is extending the Section 321 Data Pilot through August 2025.

**DATES:** The voluntary pilot initially began on August 22, 2019, and will run through August 2025. The modifications of the data elements and expansion of the test to include additional participants set forth in this document are effective as of the date of publication of this notice in the *Federal Register*.

**ADDRESSES:** Prospective pilot participants should submit an email to [ecommerce@cbp.dhs.gov](mailto:ecommerce@cbp.dhs.gov). In the subject line of your email please state, “Application for Section 321 Data Pilot.” For information on what to include in the email, see section II.D (Application Process and Acceptance) of the notice published in the *Federal Register* on July 23, 2019 (84 FR 35405).

**FOR FURTHER INFORMATION CONTACT:** Christopher Mabelitini, Director, Intellectual Property Rights & E-Commerce Division at [ecommerce@cbp.dhs.gov](mailto:ecommerce@cbp.dhs.gov) or 202-325-6915.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Section 321 Data Pilot**

Section 321(a)(2)(C) of the Tariff Act of 1930, as amended, provides for an exemption from duty and taxes for shipments of merchandise imported by one person on one day having an aggregate fair retail value in the country of shipment of not more than \$800. *See* 19 U.S.C. 1321(a)(2)(C). On July 23, 2019, U.S. Customs and Border Protection (CBP) published a general notice in the *Federal Register* (84 FR 35405) (July 2019 notice) introducing a voluntary Section 321 Data Pilot with a limit of nine participants. In accordance with the pilot, participants agree to transmit electronically certain data in advance of arrival for shipments potentially eligible for release under section 321 of the Tariff Act of 1930, as amended (Section 321 shipments). The data pilot tests the feasibility of collecting certain advance data, beyond those required by current regulations, and of collecting data from non-traditional entities, such as online marketplaces, in order to effectively identify and target high-risk shipments in the e-commerce environment. With the expansion of the data pilot, CBP intends to increase the number of trade participants who are transmitting advance data elements on Section 321 *de minimis* shipments for trade facilitation and risk management purposes, as well as add optional data elements that may be submitted by any participant.

The purpose of this data pilot is to improve CBP's ability to identify and target high-risk shipments in the e-commerce environment, in addition to enhancing CBP's ability to facilitate trade and manage risks of shipments potentially eligible for release under Section 321 more effectively and efficiently. The increase in the number of participants transmitting data, as well as the addition of new optional data elements, will provide CBP with additional data needed to measure the success of the pilot.

The July 2019 notice provided a comprehensive description of the data pilot, its purpose, eligibility requirements, the application process for participation, and specifically stated that the data pilot applied only to Section 321 shipments arriving by air, truck, or rail (84 FR 35405). In December 2019, the pilot was expanded to include

Section 321 shipments arriving by ocean and international mail covered in 19 CFR part 145 and extended through August 2021; CBP also provided clarification with respect to the misconduct portion of the data pilot (84 FR 67279) (December 2019 notice). On August 30, 2021, CBP extended the pilot for an additional two years through August 2023 to continue evaluation of the pilot and the risks associated with Section 321 shipments (86 FR 48435).

## **II. Modification to Section 321 Data Elements**

This notice announces that CBP is modifying the Section 321 Data Pilot to include optional data elements that may be submitted by any participant. The modification will enable CBP to test further the feasibility of collecting advance data from individuals or entities that may possess the most relevant information relating to an e-commerce shipment's supply chain. It will also enable CBP to better direct resources used in inspecting and processing these shipments, so that CBP can more accurately and efficiently target Section 321 shipments to assess potential associated security risks. By expanding the pilot to include new optional data elements that can be submitted by any participant, the results of the pilot will inform possible future rulemakings, trade facilitation benefits, and other CBP initiatives affecting Section 321 shipments. For these reasons, CBP is modifying the Section 321 Data Pilot to include optional data elements.

### **Data Elements**

Participants in the Section 321 Data Pilot must transmit certain information for any Section 321 shipment destined for the United States for which the participant has information (84 FR 35405). The required data elements differ slightly depending on the entity transmitting the data. In general, the required data relates to the entity initiating the shipment (*e.g.*, the entity causing the shipment to cross the border, such as the seller, manufacturer, or shipper); the product in the package; the listed marketplace price; and

the final recipient (*e.g.*, the final entity to possess the shipment in the United States). The data elements are as follows:

1. All participants. All participants, regardless of filer type, must electronically transmit the following elements:

- Originator Code of the Participant (assigned by CBP)
- Participant Filer Type (*e.g.*, carrier or online marketplace)
- One or more of the following:
  - Shipment Tracking Number
  - House Bill Number
  - Master Bill Number
- Mode of Transportation (*e.g.*, air, truck, ocean, or rail).

2. Participating carriers. In addition to the data elements listed above in paragraph 1, participating carriers must also electronically transmit the following data elements:

- Shipment Initiator Name and Address (*e.g.*, the entity that causes the movement of a shipment, which may be a seller, shipper, or manufacturer, but not a foreign consolidator)
- Final Deliver to Party Name and Address (*e.g.*, the final entity to receive the shipment once it arrives in the United States, which may be a final purchaser or a warehouse, but not a domestic deconsolidator)
- Enhanced Product Description (*e.g.*, a description of a product shipped to the United States more detailed than the description on the manifest, which should, if applicable, reflect the advertised retail description of the product as listed on an online marketplace)
- Shipment Security Scan (*e.g.*, verification that a foreign security scan for the shipment has been completed, such as an x-ray image or other security screening report)

- Known Carrier Customer Flag (*e.g.*, an indicator that identifies a shipper as a repeat customer that has consistently paid all required fees and does not have any known trade violations).

3. Participating online marketplaces. In addition to the data elements listed above in paragraph 1, participating online marketplaces must electronically submit the following data elements:

- Seller Name and Address (*e.g.*, an international or domestic company that sells products on marketplaces and other websites), and, if applicable, Shipment Initiator Name and Address
- Final Deliver to Party Name and Address
- Known Marketplace Seller Flag (*e.g.*, an indicator provided by a marketplace that identifies a seller as an entity vetted by the marketplace and has no known trade violations)
- Marketplace Seller Account Number/Seller ID (*e.g.*, the unique identifier a marketplace assigns to sellers)
- Buyer Name and Address, if applicable (*e.g.*, the purchaser of a good from an online marketplace. This entity is not always the same as the final deliver to party.)
- Product Picture (*e.g.*, picture of the product presented on an online marketplace), Link to Product Listing (*e.g.*, an active and direct link to the listing of a specific product on an online marketplace), or Enhanced Product Description (as defined in paragraph 2)
- Listed Price on Marketplace (*e.g.*, the retail price of a product that a seller lists while advertising on an online marketplace. For auction marketplaces, this price is the price of final sale.).

4. Optional Data Elements. In addition to the data elements listed above, participants, regardless of filer type, may electronically submit the following data elements:

- Harmonized Tariff Schedule of the United States (10-digit HTSUS)
- Retail Price in Export Country
- Shipper Name
- Shipper Address
- Shipper Phone Number
- Shipper Email Address
- Consignee Name (*e.g.*, the final deliver to party)
- Consignee Address
- Consignee Phone Number
- Consignee Email Address
- Buyer Name
- Buyer Address
- Buyer Phone Number
- Buyer Email Address
- Buyer Account Number
- Buyer Confirmation Number
- Shipment Initiator Phone Number
- Seller Phone Number
- Marketplace Name
- Marketplace Website
- Carrier Name
- Known Carrier Customer Flag

- Merchandise/Product Weight
- Merchandise/Product Quantity
- Listed Price on Marketplace
- Manufacturer Identification Number (*e.g.*, the MID)
- Manufacturer Name
- Manufacturer Address.

The optional data elements may be submitted as of the publication of this notice in the *Federal Register*.

### **III. Expansion of Section 321 Applicant Participation**

Effective Immediately, CBP is expanding the test to accept applications for additional participants in this test from all parties that meet the eligibility requirements. If selected for participation, participants will be onboarded in the order in which their applications are received in phases averaging three participants per month. CBP will aim to onboard an average of three additional participants each month. This expansion will allow CBP to continue evaluating the feasibility of the 321 Data Pilot program and the risks associated with Section 321 shipments.

CBP seeks participation from stakeholders in the e-commerce environment, including carriers, brokers, freight forwarders, and online marketplaces. There are no restrictions regarding organizational size, location, or commodity type. Additionally, online marketplaces do not need to offer delivery logistic services to participate in the pilot. However, participation is limited to those parties with sufficient information technology infrastructure and support, as described below. All prospective pilot participants must fulfill the following eligibility requirements:

- Participants must use MQ connectivity capability, a messaging solution component, to submit data electronically to CBP and to receive messaging responses via an existing point-to-point connection with CBP. Alternatively,

participants may authorize a carrier or broker that already participates in the pilot and has an existing point-to-point connection with CBP to transmit the information on their behalf.

- Participants establishing a new point-to-point connection with CBP will need to sign an Interconnect Security Agreement (ISA) or amend their existing ISA, if necessary, and adhere to security policies defined in the DHS 4300a security guide.
- Participants must send the mandatory data elements required for their filer type, as described above.

#### **IV. Extension of the Section 321 Data Pilot Period**

CBP will extend the pilot to continue evaluation of the 321 Data Pilot program and the risks associated with section 321 shipments. The pilot will run through August 2025.

#### **V. Authority**

This pilot is conducted pursuant to 19 CFR 101.9(a), which authorizes the Commissioner to impose requirements different from those specified in the CBP regulations for the purposes of conducting a test program or procedure designed to evaluate the effectiveness of new technology or operational procedures regarding the processing of passengers, vessels, or merchandise.

#### **VI. Privacy**

CBP will ensure that all Privacy Act requirements and applicable policies are adhered to during the implementation of this pilot.

#### **VII. Paperwork Reduction Act**

The collection of information gathered under this test has been approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) and assigned OMB control number 1651-



0142. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

### **VIII. Misconduct Under the Pilot**

A pilot participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, or discontinuance from participation in the Section 321 Data Pilot for any of the following:

- (1) Failure to follow the rules, terms, and conditions of this pilot;
- (2) Failure to exercise due care in the execution of participant obligations; or
- (3) Failure to abide by applicable laws and regulations.

If the Director, Intellectual Property Rights and E-Commerce Division, Office of Trade, finds that there is a basis for discontinuance of pilot participation privileges, the pilot participant will be provided a written notice which may be transmitted electronically proposing the discontinuance with a description of the facts or conduct warranting the action. The pilot participant will be offered the opportunity to appeal the decision in writing within ten (10) business days of receipt of the written notice. The appeal of this determination must be submitted to the Executive Director, Trade Policy and Programs, Office of Trade, by emailing [ecommerce@cbp.dhs.gov](mailto:ecommerce@cbp.dhs.gov).

The Executive Director, Trade Policy and Programs, Office of Trade, will issue a decision in writing which may be transmitted electronically on the proposed action within 30 business days after receiving a timely filed appeal from the pilot participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires. A proposed discontinuance of a pilot participant's privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the pilot participant.

In cases of willfulness or those in which public health, interest, or safety so require, the Director, Intellectual Property Rights and E-Commerce Division, Office of

Trade, may immediately discontinue the pilot participant's privileges upon written notice which may be sent electronically to the pilot participant. The notice will contain a description of the facts or conduct warranting the immediate action. The pilot participant will be offered the opportunity to appeal the decision within ten (10) business days of receipt of the written notice providing for immediate discontinuance. The appeal of this determination must be submitted to the Executive Director, Trade Policy and Programs, Office of Trade, by emailing [ecommerce@cbp.dhs.gov](mailto:ecommerce@cbp.dhs.gov).

The immediate discontinuance will remain in effect during the appeal period. The Executive Director, Trade Policy and Programs, Office of Trade, will issue a decision in writing on the discontinuance within 15 business days after receiving a timely filed appeal from the pilot participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

#### **IX. Applicability of Initial Test Notice**

All other provisions found in the July 2019, December 2019, and August 2021, notices remain applicable, subject to the expansion of applicants provided herein. Furthermore, CBP reiterates that it is not waiving any regulations for purposes of the pilot. All existing regulations continue to apply to pilot participants.

#### **X. Signing Authority**

Troy Miller, Acting Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the *Federal Register*.

DATE: February 13, 2023

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Robert F. Altneu,  
Director, Regulations & Disclosure,  
Law Division.

Regulations & Rulings,  
Office of Trade,  
U.S. Customs and Border Protection.

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