

## **Virtual Trade Week: E-Commerce Session Frequently Asked Questions (FAQs)**

**Q. What is CBP doing to eliminate shipments clearing off the manifest when a Type 86 entry is required due to partner government agency (PGA) requirements or when the \$800 aggregate per day is exceeded, especially at the Northern Border?**

Currently, entry type 86 (ET86) participation is voluntary. If an ET86 is filed that requires Partner Government Agency (PGA) information, it can receive electronic clearance. CBP works closely with other government agencies to ensure compliance to all applicable federal laws when importing and exporting. ET86 is a step in ensuring PGA information is filed and reviewed by PGAs, and the benefit is electronic clearance.

CBP is currently in an informed compliance stage for importers who violate the section 321 qualifying provisions. CBP is working closely with its trade partners to identify and educate entities who are affiliated with large volumes of ineligible shipments. CBP may take enforcement action, including against egregious and repeat violators, including placing holds on ineligible shipment, revoking section 321 privileges, or requiring formal entry until sustained compliance is achieved.

CBP encourages the trade community to know its supply chain, including brokers, carriers, marketplaces, and other trade partners. This is the first step in ensuring compliance.

**Q. U.S. de minimis is now USD \$800 while Canada and Mexico remain at CAD 20 and USD \$50. Will CBP revisit the amount to better control imports that we see our bordering countries effectively controlling?**

The increase in de minimis was a statutory change, enacted by Congress. The Trade Facilitation and Trade Enforcement Act of 2015, signed by President Barack Obama February 24, 2016, raised the value of a shipment of merchandise imported by one person on one day that generally may be imported free of duties and taxes from \$200 to \$800.

**Q. Can CBP discuss the power of attorney (POA) requirements for a broker under the Type 86 pilot? Also, please discuss the language related to the broker acting as the Importer of Record (IOR).**

Under the ET86 pilot, customs brokers must be authorized to conduct customs business on behalf of the owner, purchaser, or consignee of eligible shipments through a valid POA. A customs broker is required to file ET86 which can be appointed by an owner, purchaser, or consignee. Note that consignees may only file by appointing a customs broker to act as the IOR for the shipment.

**Q. Will all the section 321 data elements on the slide be mandatory?**

The data listed on the slide are the data elements that are under consideration for mandatory filing, pending rulemaking. However, as CBP completes the Notice of Proposed Rulemaking (NPRM) process, that information is subject to change.

**Q. Could CBP define the term “e-commerce”? For example, what is the package size standard?**

CBP does not have a package size standard, nor do we have a formal definition for “e-commerce.”

**Q. For 321 entries, there should be a carve out of product that will never reach an “end consumer.” Returns, recalls, prototypes, etc. may be returned to the importer for a variety of reasons. None of these items would find its way into the commerce of the United States, so the items are not endangering public safety. Has an exception like this been considered?**

This and other considerations are currently being discussed. CBP will review and provide responses to public comments that are received during the NPRM process.

**Q. Which of these required e-commerce data elements are new versus existing? Or are all these proposed data elements new?**

CBP already collects most of these data elements, depending on the import process. However, some of the data elements have not been previously required for section 321 entries. Many of these data elements can currently be found under 19 CFR 143.23.

The NPRM process proposes more robust information to be provided for the same requirements. Example: product description- *pants*. Under the proposed process, the description would need to provide a greater level of detail such as *pants, medium size, fabric content 80 percent cotton/ 20 percent polyester, designer*, etc.

**Q. Seller ABC uses freight consolidator MNO for their shipping needs. Is CBP looking for ABC data, MNO data, or both?**

CBP is requiring the data from the party best suited to provide the information. If the importing entity is seeking electronic clearance for the goods, then the data elements will need to be provided.

**Q. How is “person” defined for section 321? Is it by IOR number, and if so, does that include suffix numbers related to the IOR number?**

IOR is not currently being required under the NPRM. CBP is not providing formal definitions for each entity associated with a transaction at this time.

**Q. Will CBP define and enforce who the “one person” per day is under section 321?**

CBP is currently in an informed compliance stage for importers who violate the section 321 qualifying provisions. CBP is working closely with its trade partners to identify and educate entities who are affiliated with large volumes of ineligible shipments. CBP may take enforcement action, including against egregious and repeat violators, including placing holds on ineligible shipment, revoking section 321 privileges, or requiring formal entry until sustained compliance is achieved.

For additional information please reference [e-Commerce | U.S. Customs and Border Protection \(cbp.gov\)](https://www.cbp.gov/e-commerce).

