

VI. Regulatory Flexibility Act Certification

42. The Regulatory Flexibility Act of 1980 (RFA)⁷² generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.⁷³ The SBA revised its size standard for electric utilities (effective March 17, 2023) to a standard based on the number of employees, including affiliates (from the prior standard based on megawatt hour sales).⁷⁴

43. Proposed Reliability Standard PRC-024-4 (included in FERC-725G) will apply to approximately 1,230 generator owners and proposed Reliability Standard PRC-029-1 (included in FERC-725G) will apply to approximately 1,346 BES/IBR combined generator owners and non-generator owners in the United States.⁷⁵ Pursuant to SBA regulations, the employment threshold for generator owners is 950 employees. We estimate that the percentage of employees that are considered small to be 74.59% based on the North American Industry Classification System 221121 code (Electric Bulk Power Generation) and that the annual cost for each entity will be \$1,413.40 for each generator owner and \$2,826.80 for each BES IBR generator owner and \$5,653.60 for each Non-BES IBR generator owner.

44. We view this as a minimal economic impact for each entity. Accordingly, we certify that the proposed Reliability Standards PRC-024-4 and PRC-029-1 will not have a significant economic impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is required.

VII. Comment Procedures

45. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due March 24, 2025. Comments must refer to Docket No. RM25-3-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. All

comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

46. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software must be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

47. Commenters that are not able to file comments electronically may file an original of their comment by USPS mail or by courier or other delivery services. For submission sent via USPS only, filings should be mailed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submission of filings other than by USPS should be delivered to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

VIII. Document Availability

48. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>).

49. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

50. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

By direction of the Commission.

Issued: December 19, 2024.

Debbie-Anne A. Reese,
Secretary.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 128, 143

[USCBP-2025-0003]

RIN 1685-AA02

Trade and National Security Actions and Low-Value Shipments

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes amendments to the U.S. Customs and Border Protection (CBP) regulations pertaining to the administrative exemption for certain low-value shipments not exceeding \$800. Specifically, CBP proposes to make merchandise that is subject to specified trade or national security actions ineligible for this administrative exemption and to require that certain shipments claiming this exemption provide the 10-digit Harmonized Tariff Schedule of the United States (HTSUS) classification of the merchandise.

DATES: Comments must be received by March 24, 2025.

ADDRESSES: Please submit comments, identified by docket number, by the following method:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2025-0003.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Comments must be submitted in English, or an English translation must be provided.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may also be found at <https://www.regulations.gov>.

⁷² 5 U.S.C. 601-612.

⁷³ 13 CFR 121.101.

⁷⁴ 13 CFR 121.201, Subsector 221 (Utilities).

⁷⁵ Many respondents serve multiple roles in the NERC Compliance Registry, so there is likely double counting in the estimates.

FOR FURTHER INFORMATION CONTACT:

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I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this notice of proposed rulemaking (NPRM). U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP will reference a specific portion of the NPRM, explain the reason for any recommended change, and include data, information, argument, or authority that supports such recommended change.

Regulatory Alternatives

This rulemaking proposes to make imported merchandise subject to certain trade or national security actions ineligible for the administrative exemption found in 19 U.S.C. 1321(a)(2)(C) and to require that certain shipments claiming this exemption provide the 10-digit Harmonized Tariff Schedule of the United States (HTSUS) classification of the merchandise. However, in addition to comments on the above proposals, CBP is also requesting comments on whether these proposals should be extended to bona-fide gifts valued at \$100 or less (\$200,

if the gift is from certain island possessions) sent from persons in foreign countries to persons in the United States and/or certain personal or household articles valued at \$200 or less accompanying persons arriving in the United States pursuant to 19 U.S.C. 1321(a)(2)(A) and 19 U.S.C. 1321(a)(2)(B).

Moreover, given the unique nature of the international mail shipments in the postal environment as set forth in Section II.D below, CBP is specifically seeking public comments as to the effects of this proposed rulemaking on those shipments into the United States.

II. Background and Purpose*A. Administrative Exemption From Duties and Taxes*

Section 321(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)), as amended by the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), Section 901, Public Law 114–125, 130 Stat. 122 (Section 321), authorizes administrative exemptions from duty and tax imposed on or by reason of importation for three categories of imported articles, when the amount of revenue to be collected is disproportionate to the expense and inconvenience caused to the government. These categories include: bona-fide gifts valued at \$100 or less (\$200, if the gift is from certain island possessions) sent from persons in foreign countries to persons in the United States; certain personal or household articles valued at \$200 or less accompanying persons arriving in the United States; and other imported articles when the value of the article is \$800 or less.¹ These exemptions are subject to the condition that the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from duty cannot exceed the authorized amounts. Also, these exemptions are not to be granted if merchandise covered by a single order or contract is forwarded in separate lots to obtain the benefit of duty- and tax-free entry. Finally, these exemptions are also not to be granted in circumstances where regulations prescribe exceptions or limitations on eligibility for these exemptions. Pursuant to Section 321(b), such regulations may be prescribed whenever such action is consistent with the purpose of Section 321(a), or, when “necessary for any reason to protect the revenue or to prevent unlawful importations.” All further references to

¹ 19 U.S.C. 1321(a)(2). Shipments entered under this exemption are also commonly referred to as “*de minimis*” shipments.

“the administrative exemption” in this document will be to the administrative exemption found in 19 U.S.C. 1321(a)(2)(C), unless specified otherwise.

All merchandise imported into the customs territory of the United States is subject to entry and clearance procedures, unless specifically excepted. These procedures ensure the proper appraisal, valuation, and tariff classification of the merchandise for the purpose of collecting the lawful amount of duties owed, as well as compliance with all other laws and regulations administered and enforced by CBP. Different procedures are provided for the entry and clearance of merchandise depending upon the value of the merchandise. Shipments of merchandise valued at \$2,500 or less and entered pursuant to 19 U.S.C. 1498(a)(1)(A) are referred to as “informal entries.” Specifically, 19 U.S.C. 1498(a)(1)(A) authorizes the Secretary of the Treasury² to “prescribe rules and regulations for the declaration and entry of merchandise when the aggregate value of the shipment does not exceed an amount specified . . . by regulation, but not more than \$2,500.” Shipments that are eligible for the administrative exemptions at 19 U.S.C. 1321(a)(2) are a subset of the informal entries covered by 19 U.S.C. 1498(a)(1)(A). The statutory framework of 19 U.S.C. 1498 authorizes, in effect, a less formal entry process than under 19 U.S.C. 1484 (referred to as “formal entries”). As a result, informal entry procedures are less burdensome and complex than the formal entry procedures. These simplified procedures reduce the overall administrative burden on informal entry filers. The regulations pertaining to entry of merchandise claiming the exemptions in 19 U.S.C. 1321(a)(2) are found throughout various parts of title 19 of the Code of Federal Regulations (CFR). The informal entry procedures for low-value shipments claiming the administrative exemption under 19 U.S.C. 1321(a)(2)(C) are specifically found in Part 143, subpart C, which cross-reference other regulations establishing eligibility requirements. Pursuant to the current text of 19 CFR 143.23(j), such eligible merchandise must be entered by providing certain information on a bill of lading or a manifest listing each bill. However, the requirements for shipments imported by

² In accordance with Treasury Order 100–20, the Secretary of the Treasury delegated to the Secretary of Homeland Security the authority related to the customs revenue functions vested in the Secretary of the Treasury as set forth in 6 U.S.C. 212 and 215, subject to certain exceptions.

mail are found in 19 CFR part 145, and the requirements for shipments imported by express consignment operators and carriers are covered by 19 CFR part 128.³

Over the last 10 years, the number of shipments entering the United States claiming the administrative exemption has increased significantly, from approximately 139 million a year to over one billion a year. This exponential increase in shipments claiming the administrative exemption creates challenges to CBP's effective enforcement of U.S. trade laws, health and safety requirements, intellectual property rights, and consumer protection rules. Low-value e-commerce shipments pose the same health, safety, and security risks as higher-value shipments. Transnational criminal organizations and other bad actors perceive low-value shipments as less likely to be interdicted because these types of shipments are not subject to the more extensive formal entry procedures. This has resulted in attempts to enter illicit goods, such as illicit fentanyl, into the country through these types of shipments. Of particular concern are the large volume of daily importations and the more limited data regarding low-value shipments which make it increasingly difficult for CBP to target and block illicit synthetic drugs such as fentanyl and synthetic drug raw materials and related manufacturing equipment from entering the country. These developments have also created challenges with respect to the enforcement of trade actions designed to address threats to national security, unreasonable or discriminatory trade practices, and injury to domestic industry caused by import surges. In response to the significant changes in the trade environment and supply chains, substantial increases in the volume of shipments, and advancements to CBP's technological capabilities, CBP is proposing two regulatory actions to modify the regulations governing the administrative exemption.⁴

First, on [DATE], CBP published an NPRM regarding the entry of certain low-value shipments eligible for the administrative exemption under Section 321(a)(2)(C). See 90 FR 3048 The NPRM, titled "Entry of Low-Value Shipments" (ELVS NPRM) proposed various amendments to the CBP regulations

pertaining to the entry of low-value shipments.

The existing informal entry requirements for low-value shipments are less rigorous than those required for other entry types, and often do not provide sufficient information for CBP to accurately identify the merchandise in the shipment and the parties involved in its sale and purchase. Furthermore, novel and complex e-commerce business models have expanded the traditional array of parties involved in the import transaction. New or infrequent importers often possess less familiarity with U.S. customs laws and regulations, which can lead to the attempted importation of non-compliant goods.

The ELVS NPRM proposed the creation of a new entry process for entering low-value shipments, referred to as the "enhanced entry process," which would allow CBP to target high-risk shipments more effectively. The enhanced entry process is set forth in the ELVS NPRM as proposed § 143.23(l) and would require the provision of the 10-digit HTSUS classification of the merchandise. The ELVS NPRM also proposed revisions to the current process for entering low-value shipments, referred to as the "basic entry process," to require additional data elements that would assist CBP in verifying eligibility for duty- and tax-free entry. The basic entry process is set forth in the ELVS NPRM as proposed § 143.23(k).

Second, this rulemaking proposes to prescribe exceptions to eligibility for the administrative exemption under Section 321(a)(2)(C). These exceptions, described in more detail below, are consistent with the purpose of Section 321(a), and necessary to protect the revenue and prevent unlawful importations. In addition, this rulemaking proposes to require a 10-digit HTSUS classification for shipments entered using the basic entry process claiming the administrative exemption under Section 321(a)(2)(C).

B. Specified Trade and National Security Actions

The President has statutory authority to impose tariffs and establish quotas (among other actions) to address threats to national security, and serious injury or threat thereof to domestic industry, while the U.S. Trade Representative has statutory authority to take action to address unreasonable or discriminatory acts, policies, or practices, subject to any direction by the President. This rulemaking focuses on actions taken

under Section 232,⁵ Section 201,⁶ and Section 301⁷ and will refer to these actions collectively as "specified trade or national security actions." Currently, merchandise provided for in any absolute or tariff-rate quota, whether the quota is open or closed, and merchandise subject to antidumping and countervailing duties are not eligible for the administrative exemption under Section 321(a)(2)(C).⁸ However, merchandise subject to specified trade or national security actions imposing an *ad valorem* tariff is currently eligible to claim this administrative exemption.

Section 232 authorizes the President to adjust the imports of an article and its derivatives, if the Secretary of Commerce finds that the article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.⁹ For example, beginning in 2018, the President imposed *ad valorem* tariffs, absolute quotas, and tariff-rate quotas on steel mill articles and on aluminum articles from almost all countries, pursuant to this authority.¹⁰

Section 201 provides that, if the U.S. International Trade Commission determines that a good is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a good like or directly competitive with the imported good, then the President is authorized to take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition (*i.e.*, safeguards).¹¹ These actions include imposing temporary duties and other trade measures. For example, in 2018, the United States imposed an *ad valorem* tariff and tariff-rate quota on certain crystalline silicon photovoltaic

⁵ Section 232 of the Trade Expansion Act of 1962, as amended (Section 232); 19 U.S.C. 1862, Public Law 87-794, 76 Stat. 872.

⁶ Section 201 of the Trade Act of 1974 (Section 201); 19 U.S.C. 2251 *et seq.*, Public Law 93-618, 88 Stat. 1978.

⁷ Title III of the Trade Act of 1974 (Section 301); 19 U.S.C. 2411-2420, Public Law 93-618, 88 Stat. 1978 (as amended).

⁸ See 19 CFR 10.153(g) and 19 U.S.C. 1671h and 1673g.

⁹ 19 U.S.C. 1862.

¹⁰ See 83 FR 11625 (March 15, 2018) and 83 FR 11619 (March 15, 2018), as amended. Effective February 8, 2022, the United States also imposed *ad valorem* tariffs on imports of aluminum derivative articles and steel derivative articles into the United States under section 232 of the Trade Expansion Act of 1962. See 85 FR 5281 (January 24, 2020), as amended.

¹¹ 19 U.S.C. 2251, *et seq.*

³ The procedures for low-value shipments imported by mail are not implicated in this proposed rulemaking.

⁴ For a more detailed discussion of these challenges, please see the ELVS NPRM. 90 FR 3048.

cells, whether partially or fully assembled into other products, pursuant to this authority.¹²

Section 301 allows USTR to address, among others, unreasonable or discriminatory acts, policies, or practices that burden or restrict U.S. commerce. Actions may include suspending trade agreement concessions or imposing import restrictions, subject to the specific direction of the President, if USTR determines that a trading partner of the United States is violating trade agreement commitments or engaging in discriminatory or unreasonable practices that burden or restrict U.S. commerce.¹³ For example, the United States has imposed an additional *ad valorem* tariff on many products from China because China employs a series of technology transfer-related acts, policies, and practices that are unreasonable or discriminatory and burden or restrict U.S. commerce pursuant to this authority.¹⁴

Collectively, these trade or national security statutes empower the President, or USTR, in consultation with designated agencies, to enforce U.S. trade or national security objectives with respect to certain imported merchandise by, among other actions, imposing an *ad valorem* tariff in addition to the standard applicable duty rate.

C. Excepting Merchandise Subject to Specified Trade or National Security Actions From Eligibility for the Administrative Exemption

To uphold the objectives of the specified trade or national security actions discussed above, and consistent with the purpose of Section 321(a), to protect the revenue, and prevent unlawful importations, this rulemaking proposes to except merchandise subject to an *ad valorem* tariff imposed under Section 232, 201, or 301 from eligibility for the exemption under Section 321(a)(2)(C). The Secretary of the Treasury is authorized by 19 U.S.C. 1321(b) to prescribe such exceptions to any administrative exemption.

These specified trade or national security actions are meant to prevent specific harms such as the threat of certain imports to national security or domestic industries or to respond to

discriminatory or unreasonable practices that restrict or burden U.S. commerce. Thus, any Government expense involved in the collection of these additional duties is outweighed by the fact that continuing to exempt these goods would undermine the statutory scheme for trade or national security actions generally and the effectiveness of specific actions that are currently in force. Further, creating this exception would ensure that administrative exemption eligibility for products covered by the specified trade or national security actions is consistent with treatment under other U.S. trade laws. For instance, products covered by antidumping or countervailing duty orders are already excepted from eligibility for the administrative exemption under 19 U.S.C. 1321(a)(2)(C).¹⁵

Merchandise that would be ineligible to claim the administrative exemption under this rulemaking may continue to be entered under an appropriate formal or informal entry process to ensure collection of any applicable tariff. For purposes of ensuring merchandise subject to additional tariffs imposed pursuant to a specified trade or national security action is not accorded duty-free entry under Section 321(a)(2)(C), this rulemaking additionally proposes to require a 10-digit HTSUS classification for merchandise entered under the proposed “basic entry process” claiming an exemption under Section 321(a)(2)(C), in addition to the proposed requirement to provide the 10-digit HTSUS classification for merchandise entered under the “enhanced entry process” that was proposed in the ELVS NRPM. Provision of the 10-digit HTSUS classification at entry enables CBP to determine whether the merchandise is subject to *ad valorem* tariffs as a result of a specified trade or national security action, and therefore whether the merchandise is eligible for the administrative exemption.

The proposed exception applies to all merchandise identified in a specified trade or national security action imposing an *ad valorem* tariff, even if the merchandise is accorded an exclusion from the *ad valorem* tariff imposed by a specific action.¹⁶ CBP’s proposal does not affect exclusions for

purposes of determining whether an *ad valorem* trade or national security action tariff is applicable at entry. Merchandise accorded an exclusion may continue to be entered under an appropriate formal or informal entry process without being subject to the *ad valorem* tariff, that would otherwise apply had the exclusion not been accorded, consistent with all applicable requirements. Products that are not subject to the *ad valorem* tariff imposed by a specified trade or national security action, as detailed in each action, remain eligible for the exemption under Section 321(a)(2)(C). For example, in recently issued Presidential Proclamation 10782, imports of aluminum from Mexico are not subject to the *ad valorem* tariff imposed pursuant to Section 232 if the article meets specified criteria.¹⁷

The proposal to make merchandise subject to specified trade or national security actions ineligible for the administrative exemption under Section 321(a)(2)(C) is consistent with the purpose of Section 321(a) and is necessary to protect the revenue. The rate of duty for merchandise subject to additional Section 232, 201 and 301 duties is higher than the rate applicable to merchandise subject to regular rates of duty (that is, most-favored-nation rates or rates under trade agreements or preference programs). Currently, the standard duty rate assessed on imported merchandise, on average, is less than 2 percent for goods subject to regular rates of duty. In comparison, the additional Section 301 *ad valorem* tariff rate assessed on certain goods from China currently ranges from 7.5 percent to 100 percent, the Section 201 tariff rate on certain solar cells is an additional 14.25 percent, and the Section 232 tariff rate is an additional 10 percent for aluminum and an additional 25 percent for steel mill articles.

As described in the Regulatory Flexibility Act section, when the standard duty rate is combined with the tariff rate applied to the aggregate value of imported merchandise subject to an *ad valorem* tariff under Section 232, 201 and 301, the total amount of additional revenue to be collected on merchandise subject to these trade or national security actions is projected to range between \$5.9 billion and \$7.8 billion in 2025. Considering the rates of duties and the aggregate trade volume of affected imports, CBP anticipates that the amount of additional revenue to be collected under the proposed exception would substantially outweigh the expense and inconvenience to the U.S. Government of collecting the duties.

¹² See, e.g., 83 FR 3541 (January 23, 2018). For additional information on actions taken under Section 201, please refer to <https://ustr.gov/issue-areas/enforcement/section-201-investigations> (last visited November 7, 2024).

¹³ 19 U.S.C. 2411–2420.

¹⁴ See, e.g., 83 FR 28710 (June 20, 2018). For additional information on actions taken under Section 301, please refer to: <https://ustr.gov/issue-areas/enforcement/section-301-investigations/tariff-actions> (last visited November 7, 2024).

¹⁵ See 19 U.S.C. 1671h; 19 U.S.C. 1673g (requiring CBP to collect antidumping and countervailing duty deposits for “all entries, or withdrawals from warehouse, for consumption of merchandise subject to [an antidumping or countervailing duty] order”) (emphasis added).

¹⁶ CBP notes that merchandise subject to either an absolute or tariff-rate quota is already ineligible for the administrative exemption pursuant to 19 CFR 10.153(g). As a result, CBP is not discussing these quotas further in this NPRM.

¹⁷ See 89 FR 57339 (July 10, 2024).

Thus, making goods subject to *ad valorem* tariffs pursuant to these trade or national security actions ineligible for the administrative exemption is consistent with the purpose of Section 321(a), because the amount of revenue to be collected on goods subject to *ad valorem* tariffs pursuant to these trade or national security actions is substantial enough to outweigh the expense and inconvenience to the government of processing the low-value shipments. Moreover, creating an exception for goods subject to *ad valorem* tariffs pursuant to these trade or national security actions protects the revenue because failing to collect these duties represents a substantial loss of revenue to the U.S. Government.

The above proposal also serves to prevent unlawful importations. As noted above, over the last 10 years, the number of shipments entering the United States claiming the administrative exemption has increased significantly, from approximately 139 million a year in 2015 to over one billion a year in 2024. Even though these shipments have a low value, this significant increase in volume makes it more challenging for CBP to conduct targeting for purposes of, among other things, identifying violations of U.S. trade laws, health and safety requirements, intellectual property rights, and consumer protection rules, and to block illicit synthetic drugs such as fentanyl and synthetic drug raw materials and related manufacturing equipment from entering the country. Such enforcement challenges put American consumers at risk. CBP anticipates that excepting merchandise subject to *ad valorem* tariffs pursuant to specified trade or national security actions from eligibility for the administrative exemption will result in a decrease in the overall volume of shipments claiming this exemption. CBP expects that shipments of ineligible merchandise will be consolidated into larger shipments and entered under an appropriate formal or informal entry process, resulting in decreased overall volume of shipments.

D. Unique Considerations for Applicability to the International Mail Shipments

While CBP has included international mail in the scope of this proposed rulemaking, CBP seeks public comments that address the operational feasibility in the international mail environment. The U.S. Postal Service (USPS) has committed to provide comments as part of the rulemaking record. This approach seeks to determine whether there are sufficient reasons why postal shipments

can and should be treated differently, and those differences are best addressed as the rulemaking moves forward with input from the USPS and the public.

The reasons postal shipments may require a different approach in the proposed rulemaking include the following: (1) the USPS is subject to universal service obligations to deliver international mail and other constraints under both international agreements and domestic law, which create unique challenges to the application of the proposed rule to international mail; (2) international mail operates differently from other modes of global commerce, including that international postal shipments do not benefit from an end-to-end process as do commercial shipments; (3) the overwhelming majority of international mail consists of low-value shipments and the USPS typically cannot collect duties directly from the foreign mailers with whom it has no relationship; and (4) as a result of these operational considerations, the application of this proposed rulemaking may create substantial unrecoverable financial costs for the USPS, which would be inconsistent with the legal obligation of the USPS to operate in a financially self-sufficient manner.

Further, if CBP decides to exclude international mail from the scope of a final rule, the agency would intend to address the trade remedies and national security loophole for de minimis goods through additional rulemaking tailored to the unique operational and legal characteristics of the international mail environment.

III. Discussion of Proposed Amendments

This rulemaking proposes amendments to provisions found in 19 CFR parts 10, 128, and 143. Because CBP has also proposed amendments to the same provisions in the ELVS NPRM, the regulatory amendments proposed in this section are amendments of the regulations as proposed in the ELVS NPRM. See 90 FR 3048.¹⁸

CBP proposes an amendment to 19 CFR part 10 that would make merchandise subject to an *ad valorem* tariff under Sections 232, 201 and 301 ineligible for the exemption under Section 321(a)(2)(C). Part 10, among other things, implements in CBP regulations the statutorily authorized administrative exemption for low-value shipments, and lists the conditions that must be met to qualify for the exemption. Section 10.153 identifies

exceptions to the administrative exemption. The ELVS NPRM proposes to amend § 10.153 by adding a new paragraph (i), which tracks the existing statutory exception to eligibility for merchandise subject to antidumping and countervailing duties. In this present notice of proposed rulemaking, CBP proposes to further amend this section to add an additional new paragraph (j), providing that imported merchandise subject to actions imposing additional duties pursuant to Section 232, Section 201, or Section 301 are also ineligible for the administrative exemption.

CBP additionally proposes amendments to 19 CFR parts 128 and 143, to require a 10-digit HTSUS classification for all merchandise entered under the proposed basic entry process as described in the ELVS NPRM. As a result of these proposed amendments, a 10-digit HTSUS classification would be required under both the proposed basic and enhanced entry process described in the ELVS NPRM. By requiring a 10-digit HTSUS classification for entries using either the proposed basic or enhanced process, CBP will have additional data needed to corroborate the product description that would also be required for all basic and enhanced entries. This HTSUS classification assists CBP in determining eligibility for the administrative exemption, including whether merchandise is subject to specified trade or national security actions, as well as assisting with administration and enforcement more generally. Therefore, CBP is proposing to amend 19 CFR part 128, by adding this classification requirement to § 128.21(a)(4)(ii), as proposed in the ELVS NPRM, and part 143, by adding this requirement to § 143.23(k), as proposed in the ELVS NPRM.

Part 128, subpart C, sets forth requirements and procedures for the clearance of imported merchandise carried by express consignment operators and carriers, including couriers, under special procedures. Current § 128.21(a) lists the manifest information required in advance of the arrival of all express consignment cargo. The ELVS NPRM proposed to amend § 128.21(a)(4)(ii) to explain that the HTSUS subheading number would not be required for low-value shipments entered under the basic entry process in § 143.23(k). However, given that this notice of proposed rulemaking now proposes to extend this HTSUS subheading number reporting requirement to the basic entry process, CBP now proposes to amend § 128.21(a)(4)(ii) to make clear that the

¹⁸ CBP will take into account all public comments on the ELVS NPRM and will adjust this rulemaking's language as appropriate.

HTSUS subheading number is required for shipments claiming the administrative exemption entered under either the basic entry process, as proposed in § 143.23(k) of the ELVS NPRM, or the enhanced entry process, as proposed in § 143.23(l) of the ELVS NPRM.

Part 143, subpart C, sets forth the requirements for the clearance of imported merchandise under informal entry procedures. In the ELVS NPRM, CBP proposed to amend the current release from manifest process described in current § 143.23(j) and (k). The ELVS NPRM consolidates the general requirements for the basic entry process in proposed § 143.23(k). CBP is proposing to further amend paragraph (k) by adding the 10-digit HTSUS classification as a required data element that must be provided for all shipments entered using the basic or enhanced entry processes proposed in the ELVS NPRM.

IV. Statutory and Regulatory Reviews

A. Executive Orders 12866 and 13563

Executive Orders 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This rule is a “significant regulatory action” that is economically significant under section 3(f)(1) of Executive Order 12866, as amended by Executive Order 14094, because the rule would have an annual effect of \$200 million or more during at least one year of the analysis. A regulatory impact analysis (RIA), entitled Trade and National Security Actions and Low-Value Shipments (TraNSALS) Regulatory Analysis and Regulatory Flexibility Analysis, has been included in the docket of this rulemaking USCBP–2025–0003. The following presents a summary of the aforementioned regulatory impact analysis. Although this analysis attempts to mirror the terms and wording of the rule, no attempt is made to precisely replicate the regulatory language and readers are cautioned that

the actual finalized regulatory text, not the text of this assessment, is binding.

1. Purpose of the Rule

This proposed rule makes merchandise subject to an *ad valorem* tariff pursuant to a trade or national security action under Section 232, 201, or 301 ineligible for the administrative exemption in 19 U.S.C. 1321(a)(2)(C). The administrative exemption allows shipments of merchandise to be imported by one person on one day to pass free of duty and tax imposed on or by reason of importation if the aggregate fair retail value in the country of shipment does not exceed \$800, and the shipment is not covered by a single order or contract but sent in a separate lot to secure duty-free treatment. Throughout this analysis, we refer to low-value shipments that qualify for the administrative exemption in 19 U.S.C. 1321(a)(2)(C) as “qualifying low-value shipments.” For fiscal year 2023, CBP estimates that hundreds of thousands of qualifying low-value shipments would have been assessed additional tariffs owed under Section 232, 201, or 301, had they not claimed the administrative exemption. By allowing these low-value shipments to be imported without assessment of the additional duties owed pursuant to an applicable trade or national security action, the administrative exemption is undermining the United States’ trade and national security actions. Additionally, low-value shipment volumes have grown rapidly in recent years, rising from approximately 139 million to over 1 billion shipments per year between fiscal years 2015 and 2023.¹⁹ This overwhelming volume has created operational inefficiencies for CBP’s inspection of low-value shipments for compliance with U.S. laws and regulations. CBP anticipates that this rulemaking would increase tariff revenue, reduce the volume of qualifying low-value shipments, improve effectiveness of specified trade and national security actions, and thereby increase the efficiency with which CBP targets imports for security risks.

2. Need for the Proposed Rule

The Trade Expansion Act of 1962 and the Trade Act of 1974 authorize the President and USTR to impose tariffs in certain circumstances. Specifically, as relevant to this proposed rulemaking, Section 232 of the Trade Expansion Act of 1962 authorizes the President to adjust imports of an article and its

derivatives if the Secretary of Commerce finds that the article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. Section 201 of the Trade Act of 1974 authorizes the President to impose temporary trade measures if the International Trade Commission finds that an article is being imported in such increased quantities as to be a “substantial cause of serious injury or the threat thereof” to U.S. industries. Lastly, Section 301 of the Trade Act of 1974 authorizes USTR, subject to the direction of the President, if any, to impose import restrictions to address, among other things, unreasonable or discriminatory acts, policies, or practices that burden or restrict U.S. commerce. This proposed rulemaking refers to tariffs imposed under Section 232, 201, or 301 as “specified trade or national security actions.”

These specified trade or national security actions are designed to protect domestic industries, and to address the harm to domestic industry and the American public from substantial cause of serious injury or threat thereof from surges of injurious imports and unreasonable or discriminatory trade practices, and may in turn encourage foreign governments to eliminate policies that gave rise to the action, or to address the threatened impairment of U.S. national security caused by certain imports. However, some merchandise subject to specified trade or national security actions may also be eligible for the administrative exemption pursuant to Section 321 of the Trade Act of 1930, as amended (19 U.S.C. 1321(a)(2)). Section 321 provides administrative exemptions from duty and taxes that are imposed upon or by reason of importation for three categories of imported articles:

- Certain bona-fide gifts valued at \$100 or less (\$200, if the gift was from certain island possessions) sent from persons in foreign countries to persons in the United States;
- Certain personal or household articles valued at \$200 or less accompanying persons arriving in the United States; and
- All other imported articles when the aggregate fair retail value of the articles in the country of shipment is \$800 or less.

This proposed rulemaking only concerns shipments in the third category, which is covered by the administrative exemption in 19 U.S.C. 1321(a)(2)(C). To avoid confusion with the other two administrative exemptions, we will refer to this exemption alone as the “administrative

¹⁹Data pulled from CBP’s Automated Targeting System (ATS) database.

exemption.” Specifically, the administrative exemption allows a shipment to be imported duty-free when the aggregate fair retail value in the country of shipment of all articles imported by one person on the same day and exempted from the payment of duty is less than or equal to \$800. This administrative exemption was originally set at \$1 in the Customs Administrative Act of 1938 to limit the “expense and inconvenience” of collecting duty when it was a disproportionate amount of work by the U.S. Government compared to the amount of revenue that would be collected. Since its inception, Congress has increased the daily aggregate value cap to \$5 in 1978, \$200 in 1993, and \$800 in 2016. In recent years, the volume of imports subject to *ad valorem* tariffs as a result of specified trade or national security actions under Sections 232, 201, and 301 has increased, but low-value shipments qualifying for the administrative exemption are permitted to enter duty-free, even when subject to additional duties pursuant to these actions. Thus, the administrative exemption dampens the impact of specified trade or national security actions by allowing low-value imports that claim the exemption to legally avoid all duties and taxes imposed upon or by reason of importation that would otherwise be collected, including the additional duties collected under specified trade and national security actions. In fiscal year 2023, an estimated 77 percent of shipments claiming the administrative exemption would have been assessed additional duties under Section 232, 201, or 301 had they not claimed the administrative exemption.²⁰

Additionally, low-value shipments create operational inefficiencies for CBP’s ability to inspect these goods due to their high volumes and more limited data requirements. The volume of shipments claiming the administrative exemption has risen sharply from approximately 139 million in fiscal year 2015 (prior to the increase in the daily aggregate exempted value cap) to 1 billion shipments per year in fiscal year 2023.²¹ In 2019, CBP implemented the Entry Type 86 Test (84 FR 40079; subsequently amended in 89 FR 2630), which created a new electronic process for filing entries of qualifying low-value

shipments in the Automated Commercial Environment (ACE), as a voluntary alternative to the current regulatory “release from manifest” process under parts 128 and 143 of the CBP regulations. Under this test, an owner, purchaser, or customs broker appointed by an owner, purchaser, or consignee may file an entry type 86 through ACE for shipments claiming the administrative exemption. Ten data elements are required to be transmitted to CBP as part of the entry, including the 10-digit HTSUS classification for the imported merchandise. The Entry Type 86 Test facilitates the clearance of compliant low-value shipments into the United States through the filing of an electronic entry in ACE, to include the submission of partner government agency (PGA) data, which expedites release. While Entry Type 86 has sped up processing for many shipments claiming the administrative exemption, the remaining shipments entered under the current regulatory “release from manifest” process²² may require manual clearance and provide CBP with more limited data. CBP anticipates that this rulemaking would reduce the volume of shipments claiming the administrative exemption and thereby increase the efficiency with which CBP targets imports for security risks, including curbing the smuggling of illegal opioids such as heroin and fentanyl, by shifting some shipments to other entry types that require more data and the use of an authorized broker.

3. Summary of Proposed Rule

In this proposed rule, CBP proposes to make all goods subject to trade or national security actions under Sections 232, 201, and 301 ineligible for the administrative exemption. As a result, importers of such goods would have to pay both the standard duties and any additional duties imposed pursuant to trade and national security actions under Sections 232, 201, and 301, even when the entry value is under \$800; shipments containing such goods would instead need to be entered through an alternative entry type. CBP assumes that filers will use entry type 11 (another informal entry type) or entry type 01 (a formal entry type), depending on the value of the merchandise.²³ To enable

CBP to determine whether merchandise is eligible for the administrative exemption, CBP proposes to collect the 10-digit HTSUS classification as part of the basic as well as the enhanced processes, as described in the ELVS NPRM. This is a proposed modification of the ELVS NPRM, which did not propose to require the 10-digit HTSUS classification as part of the data required for entry under the basic entry process.²⁴ In the ELVS NPRM, CBP proposed to only require the 10-digit HTSUS classification of the merchandise to be provided as part of the enhanced entry process (subject to waiver in certain circumstances subject to specified conditions).²⁵ This Trade and National Security Actions and Low-Value Shipments NPRM would expand that HTSUS classification reporting requirement to include shipments claiming the administrative exemption under the basic entry process.

The proposed rule would strengthen the United States’ specified trade and national security actions, especially for Section 301 tariffs. For example, the goal of the current Section 301 action is to discourage China’s acts, policies, and practices related to technology transfer, intellectual property, and innovation that burden or restrict U.S. commerce. Additionally, the specified trade or national security actions can be used to protect domestic industries from serious injury, or the threat thereof, by import surges or adjust imports that threaten to impair the national security. Moreover, enforcement of U.S. trade laws and US trading rights protects domestic industries and workers from unfairly traded imports. An industry that is particularly vulnerable to circumvention by qualifying low-value shipments from China is the U.S. textile and apparel manufacturing industry. A large volume of Chinese textile and apparel imports claim the administrative exemption, thereby avoiding tariffs. Further, approximately

employed for shipments that no longer qualify for the administrative exemption.

²⁴ The “basic entry process,” as described in the ELVS NPRM is largely the same as what is known as the “release from manifest” process currently in use but with minor changes to certain data elements. Detailed information about those proposed data element changes can be found in the Entry of Low-Value Shipment NPRM.

²⁵ The proposed ELVS rule would allow entry filers to apply for a waiver privilege (*i.e.*, a “waiver”) from the requirement to transmit the HTSUS as part of an enhanced entry for non-PGA related goods. To obtain a waiver, the filers meet several criteria generally demonstrating their ability to properly classify merchandise, determine whether the merchandise is subject to the requirements of partner government agencies (PGAs), or otherwise precluded by law from eligibility for the administrative exemption.

²⁰ Our estimate is based on a random sample of 6,238,513 ET86 entries from fiscal year 2023, pulled from CBP’s ACE database. We assume that qualifying low-value shipments cleared off the manifest are as likely as type 86 entries (a test which created a new electronic informal entry process for filing qualifying low-value shipments in ACE (84 FR 40079)) to be covered by additional Section 232, 201, or 301 tariffs.

²¹ Data pulled from CBP’s Automated Targeting System (ATS) database.

²² The “release from manifest” process describes shipments claiming an exemption under 19 U.S.C. 1321(a)(2)(C) which are released from CBP custody based on the information provided on the manifest or bill of lading, 19 CFR 128.24(e) and 143.23(j)(3)–(k). See 84 FR 40079, 40080 (Aug. 13, 2019); 89 FR 2630, 2631 (Jan. 16, 2024).

²³ While other entry types are available, they comprise a minor portion of total entries. Because type 01 and 11 entries are most common, we assume these are the most likely types that will be

50 percent of the value of current qualifying low-value shipments is attributed to textiles and apparel that would otherwise be subject to additional duties under Section 301. Broadly speaking, an estimated 15.9 percent of total imports covered by Section 232, 201, and 301 tariffs are exempt from the tariffs as a result of claiming the administrative exemption.²⁶ By excepting imported goods that are subject to additional duties imposed under Section 232, 201, and 301 actions from the administrative exemption under 19 U.S.C.

1321(a)(2)(C), CBP would increase the effectiveness of these specified trade or national security actions. This proposed rule would further help protect domestic industries and discourage unreasonable or discriminatory practices, among other things, by other countries.

This rule would also increase CBP's inspection efficiency by shifting a large volume of shipments that would become ineligible to claim the administrative exemption into alternative entry types, such as formal type 01 and informal type 11 entries. Low-value shipments claiming the administrative exemption are currently more challenging for CBP to efficiently inspect than other entry types because they arrive with more limited data. As a result, CBP officers must do more work to ensure that a low-value shipment is admissible and to determine whether the shipment is eligible for the administrative exemption, which is often impossible without physical inspection of the shipment. Shipments entered using type 01 or 11 entries, in contrast, arrive with more detailed information about the contents of the goods included in the shipment, increasing CBP's inspection efficiencies.

Furthermore, shifting shipments that will become ineligible for the administrative exemption to an alternative entry type, such as type 01 formal or type 11 informal entry, is likely to result in the consolidation of multiple, similar items into a single shipment.²⁷ Specifically, the \$800 daily aggregate value limit for shipments claiming the administrative exemption incentivizes importers to de-consolidate goods into numerous low-value shipments to avoid paying tariffs. Absent the ability to avoid tariffs, importers are likely to be incentivized to

reduce per-unit shipping costs by consolidating items in bulk shipments.²⁸ This consolidation results in fewer, higher value entries, where multiple identical items can be reviewed by CBP officers at the same time. Consolidation of non-identical items is also possible and could result in savings if they are from the same shipper or origin or have other similar characteristics. However, for the purposes of this analysis, we focus on the consolidation of similar or identical goods, because that is where there are the clearest savings for both trade members and CBP.

Finally, the proposed rule is likely to improve CBP's ability to accurately identify the contents of a shipment claiming the administrative exemption even if it does not contain goods subject to an *ad valorem* tariff as a result of a trade or national security action under Section 232, 201, or 301. Many of these goods currently use the "release from manifest" entry process, and absent this rule, would use the basic entry process if the ELVS NPRM is finalized. The "release from manifest" process (or its proposed modification into the "basic entry process" as described in the ELVS NPRM) is less costly for importers, because less information is submitted to CBP, but the release of shipments by CBP is slower, averaging 3 days.²⁹ In contrast, shipments using type 01 or 11 entries, or the current Entry Type 86 Test (or its proposed modification into the "enhanced entry process" as described in the ELVS NPRM), are typically released by CBP within 1 day. This proposed rule would require a 10-digit HTSUS classification under both the basic and enhanced entry process.

²⁸ For example, imagine a retailer sells 10,000 identical shirts manufactured in China via an eCommerce platform, and each shirt has a value of \$10. Packaging each shirt individually at a factory or distribution center in China for direct delivery to the final consumer in the United States allows filers to claim the administrative exemption on behalf of the final consignee (*i.e.*, the consumer). Absent this administrative exemption, the retailer must pay the tariff based on the value of each shirt as well as a filing fee for each individual shipment. If the retailer chooses instead to ship all 10,000 shirts as a single line item in a bulk shipment to an existing distribution center in the United States, the total tariff payment is the same, but the filing fee is orders of magnitude smaller because it is only paid once (rather than 10,000 times). The shirts can then be packaged in the United States for individual delivery to the final customer. Retailers will make strategic decisions about how to import goods affected by this rule based on a variety of factors including filing fees; the relative costs of using foreign or domestic distribution centers; the costs in terms of money and time associated with slower, lower-priced ocean freight (bulk containers) versus faster, higher-priced air freight (individual packets); inventory management costs; etc.

²⁹ See the ELVS Regulatory Analysis supporting the NPRM.

As a result, importers will likely opt for enhanced entry, with its faster clearance times, given that the difference in administrative costs between the basic and enhanced entry processes will become negligible. Having the HTSUS classification along with several additional data elements required for enhanced entry under the ELVS NPRM will improve CBP's targeting abilities.³⁰

4. Proposed Rule Benefits, Costs and Transfers

Analytic Baseline

This analysis estimates the benefits, costs, and transfers anticipated for a 10-year period beginning in 2025, the expected year of rule implementation. Estimating these effects requires defining and modeling a baseline scenario that reflects the world without the proposed regulation. By comparing the baseline, or "world without the regulation," to the "world with the regulation," analysts can characterize the incremental effects of the regulation. The baseline scenario is forward-looking, in that it projects what the world would look like, in the future, absent the new regulation. We make three key assumptions related to the baseline scenario:

- *Shipment modes and entry types:* We assume that in the future, absent this proposed rule, shipments would continue to be entered into the United States in the same proportions (by shipment mode and entry type) as in 2023. These entries are predominantly commercial non-express type 86 entries (58 percent), followed by manifest express entries (17 percent), manifest commercial non-express (16 percent), postal (8 percent), and express type 86 entries (1 percent).
- *Low-value shipment growth:* We assume the total value of qualifying low-value shipments in 2026 through 2034 grows at the rate of projected GDP growth over the same period. We note that this assumption is highly uncertain. Since 2016, when Congress increased the administrative exemption limit to \$800, the volume of qualifying low-value shipments has increased exponentially, with shipments from

³⁰ ELVS proposes to require a CTIN, the country of shipment of the merchandise, the 10-digit HTSUS for all enhanced entries. ELVS also proposes to require enhanced entries to include a URL, product picture, product identifier, and/or a shipment x-ray or other security screening report number verifying completion of foreign security scanning of the shipment. The seller name and address, purchaser name and address, any data or documents required by other government agencies, advertised retail product description, and marketplace name and website or phone number are proposed to be required for enhanced entries as they are applicable.

²⁶ See Chapter 5 of standalone RIA for sources and estimation method.

²⁷ We acknowledge that consolidation may not be possible for all qualifying low-value shipments. For a discussion of which shipments might be consolidated see Exhibit 3-5 of the standalone RIA.

China the primary contributor to this growth. We assess the sensitivity of our results to alternative growth assumptions.

- *Entry of Low-Value Shipments (ELVS) Rule:* CBP has published a Notice of Proposed Rulemaking proposing the ELVS rule, which would replace the existing Entry Type 86 Test with a new entry process (“enhanced entry”) providing expedited clearance for qualifying low-value shipments. For the purposes of this analysis, we assume that the final ELVS rule will be published and implemented in advance of the Trade and National Security Action final rule. If it is not, this analysis will be revised as necessary in the final rule.

Incremental Costs and Transfers

We model costs and transfers from the proposed rule using a partial equilibrium analysis for industry-level qualifying low-value imports from 2025 to 2034. The primary costs of the proposed rule are consumer surplus losses resulting from increased duties and possibly increased processing fees, resulting in higher prices for imported

goods paid by U.S. consumers on imported goods.^{31 32} Under the proposed rule, importers are required to pay tariffs on all goods subject to an *ad valorem* tariff pursuant to Section 232, 201, or 301, and some shipments are subject to additional fees. Our analysis focuses only on goods that would be subject to Section 301 tariffs absent the administrative exemption. Data shows that 0.1 percent of goods (by value) that entered using ET86 in FY 2023 had HTSUS codes subject to Section 232 or 201 tariffs. The resulting price increases lead to higher equilibrium duty-inclusive prices and reduced imported quantities, leading to a decline in consumer surplus, a measure of welfare that reflects the difference between what a consumer is willing to pay and what the consumer paid for a product.

An important component of consumer surplus loss is the transfer of tariff revenue to the government. Although consumers face higher prices for imported goods, the U.S. government generates tariff revenue on goods that were previously avoiding tariffs by claiming the administrative exemption. The net effect of consumer surplus

losses and gain in government tariff revenues is the resulting welfare change under the proposed rule.³³

Cost Shocks

To model the impact of the proposed rule, we introduce cost shocks comprised of two components: (1) a tariff that will apply to certain goods currently claiming the administrative exemption; and (2) additional fees associated with services provided by licensed customs brokers and CBP staff to process low-value shipments, regardless of whether the shipments remain in the 19 U.S.C. 1321(a)(2)(C) exemption environment or shift to formal type 01 or informal type 11 entry. The tariffs apply on an *ad valorem* basis to affected goods, regardless of whether these goods are shipped individually or as part of larger, consolidated shipments. The weighted average tariff rate for affected low-value shipments across all industries included in the analysis is 21.2 percent. Table 1 presents the weighted average tariff rate by industry for affected low-value shipments.

TABLE 1—WEIGHTED AVERAGE SECTION 301 AND MFN TARIFF RATES BY 3-DIGIT NAICS CODE

NAICS code	NAICS description	Weighted average tariff rate (%)
11	Agriculture, Forestry, Fishing and Hunting	21.8
211	Oil and Gas Extraction	25.0
212	Mining (except Oil and Gas)	25.0
311–312	Food, Beverage and Tobacco Product Manufacturing	12.2
313	Textile Mills	31.2
314	Textile Product Mills	31.0
315	Apparel Manufacturing	21.0
316	Leather and Allied Product Manufacturing	28.3
321–323	Wood, Paper, Printing	21.2
324	Petroleum and Coal Products Manufacturing	26.8
325–326	Chemical, Plastics, Rubber Products Manufacturing	17.8
327	Nonmetallic Mineral Product Manufacturing	23.9
331	Primary Metal Manufacturing	23.1
332	Fabricated Metal Product Manufacturing	25.5
333	Machinery Manufacturing	24.9
334	Computer and Electronic Product Manufacturing	21.0
335	Electrical Equipment, Appliance, and Component Manufacturing	26.4
336	Transportation Equipment Manufacturing	22.8
337–339	Furniture and Miscellaneous Manufacturing	14.1
All Industries		21.2

Source: Data provided by the International Trade Administration (ITA) via email on October 11, 2024.

In contrast to tariff payments, fees are assessed on a per-shipment basis, and thus vary significantly depending on

assumptions about the degree to which items are bundled together in larger, consolidated shipments. These fees

include: (1) payments to brokers to file and process entries; and (2) the merchandise processing fee (MPF) paid

³¹ Consumer surplus is an economic measure of welfare that reflects the difference between what a consumer is willing to pay and what the consumer paid for a product.

³² In this analysis, we assume the prices experienced by consumers include tariffs and processing fees paid by manufacturers or retailers

selling the goods and arranging for their importation and delivery.

³³ We note that this analysis focuses primarily on the overall societal effect of the proposed rule. It does not quantify the potential distributional effects associated with the incidence of the increased prices for affected goods and the incidence of revenue gains associated with the collection of tariff

revenue; however, it describes the potential distributional effects of increased prices qualitatively in Section 3.4 and Appendix A. Forecasting how the tariff revenue may be returned to the U.S. population (e.g., through tax cuts or other policy options) is beyond the scope of this effort. If tax cuts are selected, additional distributional distortions are possible.

to CBP on all type 01 and 11 entries.³⁴ Table 2 presents the fees charged by brokers (working with carriers) to file and process entries. Our estimate for the cost of processing an international shipment in the postal environment is

\$8.55. We do not include the \$7.20 dutiable mail fee charged by CBP, which is required when CBP personnel must complete the paperwork for postal shipments themselves, as it is not clear how often CBP personnel would be the

ones completing the paperwork. CBP is requesting public comment on the expected costs of processing a shipment in the postal environment, including how often the dutiable mail fee is expected to apply.

TABLE 2—PER SHIPMENT FEES

Type	Fee (\$/shipment)
Broker fee: ¹	
Non-express commercial carrier ²	\$1.00
Express commercial carrier ³	30.00
Postal carrier ³	8.55
Merchandise Processing Fee (MPF): ⁴	
All	2.53

Sources and assumptions:

¹ A licensed broker is not currently required for the “release from manifest” entry process, nor would the ELVS NPRM require one for the basic entry process if the ELVS NPRM is finalized as proposed. We assume for purposes of this analysis that a broker fee is charged for any entry requiring an HTSUS code and is similar regardless of whether the filer uses enhanced entry, entry type 86, 01, or 11. (Source: Personal communication with representatives of a major broker association on 9/26/2024.)

² Email from CBP dated 10/11/2024.

³ Faigelbaum and Khandelwal (2024).

⁴ Minimum merchandise processing fee for informal entries as of October 1, 2023. (As viewed on 10/11/2024 on <https://www.federalregister.gov/documents/2023/07/28/2023-16197/cobra-fees-to-be-adjusted-for-inflation-in-fiscal-year-2024-cbp-dec-23-08>.)

We highlight that these fees are a significant additional cost for many qualifying low-value shipments relative to the overall value of these goods. For example, roughly one-fifth (18.5 percent) of qualifying low-value shipments have a declared value of \$5 or less and the majority of these shipments (61.5 percent) have a declared value of \$25 or less. Examination of the magnitude of fees relative to the value of shipments currently claiming the administrative exemption, coupled with discussions with representatives of the customs broker and logistics community, suggest that shipment consolidation is a likely outcome of the proposed rule (see chapter 3 in the RIA available in the docket of this rulemaking for additional detail). We evaluate the uncertainty associated with an assumption about the likelihood of consolidation by modeling two separate scenarios, summarized below:

- *Low impact scenario.* We assume that in order to mitigate additional fees, similar or identical Section 301 goods are consolidated into larger, bulk shipments, which would be entered

using either entry type 01 or entry type 11 and would be comprised of multiple pieces of identical items.³⁵ As a result, the only increase in price experienced by consumers of goods subject to Section 301 duties is the duty because all fees are assumed to be fully mitigated.³⁶ Certain shipments without Section 301 goods are also affected because they must provide an HTSUS code where none was required previously. Non-Section-301 shipments in the express environment using the basic entry process are consolidated to mitigate the fees paid to the broker for filing the entry with the HTSUS (*i.e.*, similar to Section 301 goods, fees are assumed to be negligible, or \$0). For express shipments that would use enhanced entry, and therefore already provide HTSUS codes, no change in entry mode occurs. Similarly, because this rule does not require an HTSUS code for postal shipments, postal shipments without Section 301 goods are also unaffected.

- *High impact scenario.* In this scenario, we assume less consolidation occurs. Shipments without Section 301 goods remain qualifying low-value

shipments and pay a fee to a customs broker to file the entry with the HTSUS code. The fee ranges from \$1 to \$30 per shipment, depending on the carrier. Because the affected parties are hiring a broker to file the entry and assign an HTSUS code, they file an enhanced entry, rather than a basic entry.³⁷ For shipments with Section 301 goods, we assume that the typical business relationship between non-express carriers and their clients supports consolidation of like items as a means of mitigating fees, which would result in these shipments being entered either using entry type 01 or entry type 11 (*i.e.*, net fees, when combined with the potential savings in shipping costs associated with consolidation, are assumed to be negligible, or close to \$0). However, we assume Section 301 shipments transported by express carriers and the postal service remain unconsolidated and apply associated per shipment fees (*i.e.*, broker/filing fees range from \$8.55 to \$30 per shipment, depending on the carrier, plus a MPF of \$2.53 per shipment).

³⁴ Conversations with brokers suggest the MPF for higher-value bulk shipments will be negligible. Therefore, we do not consider the MPF fees explicitly in the analysis.

³⁵ As noted earlier, we acknowledge that consolidation may not be possible for all qualifying low-value shipments. Thus, this scenario more likely represents a lower-bound estimate of the impacts of the proposed rule.

³⁶ As discussed in detail in Section 3.3.2 of the standalone RIA, given the high cost of broker fees and MPF relative to the value of items included in qualifying low-value shipments, it is likely that

retailers will strategically consolidate shipments in order to negate the impact of these fees. Thus, this low impact scenario considers only the impact of newly applicable tariffs. The impact of additional broker fees and MPF is considered in the high impact scenario.

³⁷ In this high impact scenario, some shipments are likely to remain as low value shipments and should therefore see faster clearance times resulting from the use of a different filing process. However, as discussed earlier and in Chapter 3 of the standalone RIA, in both the low and high impact scenarios, we anticipate substantial consolidation of

individual items in larger, bulk shipments, where they will be sent to U.S. facilities for storage, packaging, and distribution. These items will likely travel by ship, rather than plane, so while they will be cleared through customs more quickly, they will take longer to travel from the foreign port to their U.S. destination (this time cost is offset by substantially lower freight costs associated with ocean freight). On balance, considering all affected shipments, it is difficult to say whether net time savings will occur. For this reason, we do not explicitly quantify potential time-savings or time costs in this analysis.

Results

Results from the partial equilibrium analysis are as follows:

1. *Consumer surplus losses* in 2025 range from \$10.0 billion (low scenario) to \$18.2 billion (high scenario). These losses are largely explained by higher import prices faced by consumers. In both scenarios, tariffs raise the price of low-value shipments for the consumer. In the high scenario, these price increases are heightened due to broker fees and MPF applicable to many shipments. In addition, consumers experience a welfare loss associated with a reduction in import quantities resulting from these price increases.

2. *Tariff revenues increase* in all years relative to the baseline. In 2025, \$7.8 billion in tariff revenues are generated in the low scenario, compared with \$5.9 billion in the high scenario. Because tariff revenues depend on the value of imported goods, the high scenario generates less revenue as consumer demand falls in response to the additional fees on many shipments.

3. The proposed rule results in *net decreases in welfare* in the low scenario (–\$2.2 billion in 2025) and high scenario (–\$12.3 billion in 2025).³⁸ For the 10 years following rule implementation, the present value of these welfare effects is a loss of \$21.9 billion in the low scenario and \$121.9 billion in the high scenario (assuming a 2 percent real discount rate).³⁹ The greater impacts in the high scenario result from the additional costs imposed on imported goods in the form of broker fees and merchandise processing fees.⁴⁰

4. *Tariff pass-through*—the rate at which increased tariffs are passed on to consumers through higher prices—is a key parameter that influences all three partial equilibrium outputs presented in this report: consumer surplus, tariff revenues, and net welfare effects. Consistent with recent economic evidence on tariff pass-through, we assume full tariff pass-through to U.S. consumers in our main estimates.⁴¹ That

³⁸ As discussed in Point #7, these losses are likely to be regressive in nature, disproportionately affecting low-income and minority consumers.

³⁹ OMB Circular No. A–4 (2023) requires agencies to estimate the present value and annualized impacts of a proposed rule by applying a 2 percent real discount rate.

⁴⁰ We note that our estimate of the net effect of changes in consumer surplus and tariff revenue does not explicitly measure potential changes in producer surplus. The direction and magnitude of bias introduced to the net welfare estimate is uncertain. Please see Section 3.1 for additional discussion.

⁴¹ The historical evidence on tariff pass-through (and the related phenomenon of exchange rate pass-through) has suggested that the benefits from reduced tariffs are only partially passed through to

consumers bear the full cost of increased tariffs as foreign suppliers do not adjust their supply prices. Given uncertainty in the rate of tariff pass-through, we calculated the “break-even” points where the net welfare effects are \$0.⁴² In the low scenario, pass-through rates greater than 79 percent (including the 100 percent pass-through assumed in our main estimates) result in net welfare losses; lower pass-through rates would result in net welfare gains. In the high scenario, this break-even point is roughly 35 percent. In other words, if

consumers (*i.e.*, foreign suppliers increase their prices in response to the tariff cut). More recent evidence focuses on the effect of the sharp increases in tariffs, primarily hitting Chinese imports, in 2018 to 2019. In this episode, the estimated effects are very different. Fajgelbaum et al. (2020) finds complete pass-through of tariffs to import prices using product-level monthly import and export data from the U.S. Census Bureau, *i.e.*, foreign supplier did not reduce their prices in response to the tariffs. These results are supported by more recent analyses by Chang et al. (2021) and Ma et al. (2021) (as cited in Fajgelbaum and Khandelwal 2021) and Amity et al. (2020). These studies focus on the price of imported goods at the entry port. Cavallo et al. (2019) employs data from product-level data for several large U.S. retailers and finds tariffs were passed through almost fully to U.S. import prices at the entry port. However, the effects on resulting retail prices were muted, suggesting tariff incidence was largely born by U.S. retailers. Importantly, these studies evaluated the effects of the tariff on all imports, not just qualifying low-value shipments, which comprise a small percentage of imports in each product category. If a comprehensive tariff did not lower supply prices, a tariff affecting only a small percentage of the total is even less likely to lower supply prices. In this analysis, we assume that higher U.S. import prices at the entry port are passed on entirely to U.S. consumers, similar to the assumptions in Fajgelbaum and Khandelwal (2024).

⁴² We highlight three reasons why evidence of full pass-through is accompanied by uncertainty. First, analysis of the recent tariff episode is drawn from a relatively short time window before the effects of the global pandemic and supply chain disruptions thoroughly confounded the ability to measure longer run effects carefully. This episode includes elements of what Fajgelbaum and Khandelwal term the “trade war” that are important because firms on both sides of the market were experiencing shocks to both supply (via traded inputs) and demand, making identification of the demand effects complicated. Further, a potential reason for complete pass-through of tariffs is that markets are slow to adjust to shocks: prices are locked in by previously negotiated contracts; and consumers of imported goods are slow to find alternative sources of supply. Second, while the recent episodes tend to find complete pass-through for most goods they examine, there is some heterogeneity in the response across firms and product sectors. This no doubt results from differences in market structure, response horizons, and substitution options in both supply and demand. As an example, Fajgelbaum and Khandelwal (2021) emphasizes that this work does not address how tariffs might change the selection of products to be imported, or the possibility that foreign suppliers might downgrade the quality of imported products while holding prices fixed. Finally, it should be said that while the evidence of complete tariff pass-through in the recent episode is very strong, it is also regarded as significantly puzzling and a subject for active research to uncover precisely why foreign supply prices were not more responsive.

foreign producers reduce their prices by an amount equal to 21 percent of the tariff increase in the low scenario, or 65 percent of the tariff increase in the high scenario, consumer surplus losses are offset by increased tariff revenue.^{43 44}

5. Impacts are largely concentrated among qualifying low-value shipments containing Section 301 goods, which are subject to tariffs under the proposed rule. In the high scenario, we estimate additional costs for a subset of qualifying low-value shipments not containing Section 301 goods, which may be subject to additional broker fees to comply with the rule’s requirements to provide HTSUS codes.

6. Apparel manufacturing comprises the majority (51.4 percent) of the value of qualifying low-value shipments. While the effects of the rule on each industry are not exactly proportional to its share of imports (due to differing demand elasticities and tariffs in each sector), the effects are concentrated among few industries comprising most affected imports.

7. *Distributional considerations:* While data limitations hindered our ability to examine how the proposed rule may disproportionately impact some consumers, Fajgelbaum and Khandelwal (2024)⁴⁵ provide evidence that eliminating the administrative exemption entirely would disproportionately affect lower-income and minority consumers. In their paper, the authors explain that direct-to-consumer imports comprise a higher share of household spending for zip codes with lower incomes and lower shares of white households. Their analysis finds that consumers in the poorest zip codes lose 24.8 percent more consumer surplus than the representative consumer. In Appendix A in the standalone RIA, we provide additional detail on this study and its

⁴³ It is possible that there will also be an increase in producer surplus. See Section 3.1.

⁴⁴ As noted earlier, our analysis focuses primarily on the overall societal effect of the proposed rule. It does not quantify the potential distributional effects associated with the incidence of the increased prices for affected goods and the incidence of revenue gains associated with the collection of tariff revenue; however, it describes the potential distributional effects of increased prices qualitatively in Section 3.4 and Appendix A. If more of the tariff is borne by foreign producers, price increases will be smaller, reducing the disproportionate impact on lower-income consumers. The potential for disproportionate impacts associated with tax policies designed to return tariffs to consumers also exists in such a scenario.

⁴⁵ Fajgelbaum, P.D. and A. Khandelwal. (2024). “The Value of De Minimis Imports.” National Bureau of Economic Research Working Paper No. 32607.

applicability to our analysis of the proposed rule.

8. *Baseline growth in qualifying low-value imports* is highly uncertain. In our main estimates, we assume that post-2025 growth in qualifying low-value import values follows growth in real GDP. In essence, this implies that the value of qualifying low-value shipments would comprise the same share of overall GDP in each year from 2025 to 2034. Growth in the low-value import sector, however, has considerably outpaced GDP in recent years. As a

sensitivity analysis, we present a high-growth scenario assuming 18.4 percent annual increases in qualifying low-value shipment value and associated welfare effects. This percentage corresponds with the growth in total low-value shipment values between 2023 and 2024 and is generally reflective of growth since 2016. The resulting present value of welfare losses over the 10-year analysis period is approximately doubled relative to our main estimates: using a discount rate of 2 percent, we estimate \$47.2 billion in net welfare

losses in the low scenario and \$262.5 billion in net welfare losses in the high scenario. We note, however, that sustaining 18 percent growth in the value of qualifying low-value shipments may be implausible.

Our primary estimates are presented in Table 3. Programming costs to the U.S. government associated with rule implementation are also considered. Over the 10-year period of our analysis, the present value cost of these software changes is approximately \$460,000, assuming a discount rate of 2 percent.

TABLE 3—PARTIAL EQUILIBRIUM ANALYSIS RESULTS: 2025–2034 MAIN RESULTS
[\$Billions, 2024 dollars]

Year	Low impact scenario			High impact scenario		
	Consumer	Tariff	Welfare	Consumer	Tariff	Welfare
2025	-\$10.0	\$7.8	-\$2.2	-\$18.2	\$5.9	-\$12.3
2026	-10.3	8.0	-2.2	-18.6	6.0	-12.5
2027	-10.5	8.2	-2.3	-18.9	6.2	-12.8
2028	-10.7	8.3	-2.3	-19.3	6.3	-13.0
2029	-10.9	8.5	-2.4	-19.6	6.4	-13.2
2030	-11.0	8.6	-2.4	-19.9	6.5	-13.4
2031	-11.2	8.7	-2.5	-20.3	6.6	-13.7
2032	-11.4	8.9	-2.5	-20.6	6.7	-13.9
2033	-11.6	9.1	-2.5	-21.0	6.8	-14.2
2034	-11.8	9.2	-2.6	-21.4	7.0	-14.4
Total, undiscounted	-109.4	85.4	-24.0	-197.9	64.5	-133.4
Present value, 2% d.r.	-99.9	78.0	-21.9	-180.8	58.9	-121.9
Annualized, 2% d.r.	-10.9	8.5	-2.4	-19.7	6.4	-13.3

Note: Growth in the value of qualifying low-value shipments is assumed to match growth in real GDP from 2025 to 2034. When growth is assumed to match year-over-year growth in low-value shipments since 2016, net welfare losses in the low scenario are estimated at \$47.2 billion and \$262.5 billion in the high impact scenario.

Incremental Benefits

The proposed rule would preclude goods subject to specified trade or national security actions from claiming the administrative exemption, which would strengthen the effectiveness of the United States’ trade and national security actions. Moreover, the change in eligibility for the administrative exemption would significantly reduce the volume of qualifying low-value shipments, and to enforce this change in eligibility for the administrative exemption, CBP would require all low-value shipments entered through basic entry to provide an additional data element. Both the reduction in qualifying low-value shipments and the additional data would improve CBP’s ability to identify violative goods and prevent inadmissible merchandise from entering the United States. These benefits are described qualitatively below.

Trade and National Security Actions

First, the proposed rule would strengthen the effectiveness of United States’ trade and national security

actions. Section 301 tariffs are meant to incentivize changes in foreign governments’ acts, policies, or practices. Additionally, specified trade and national security actions can be used to protect U.S. industries from injurious serious injury, or the threat thereof, caused by import surges, unreasonable or discriminatory practices, or adjust imports that threaten to impair national security. Allowing these goods to be imported without assessing the Section 301 tariff that would otherwise be applicable undermines this effort. Excluding these goods from the administrative exemption and requiring additional data will allow CBP officers to assess additional duties, specified in an applicable trade or national security action.

By increasing tariff revenue, this rule would help accomplish the goals of the tariff actions. The largest effect would be on goods subject to Section 301 tariffs. Based on a random sample of 6,238,717 type 86 entries in fiscal year 2023, we estimate that 77 percent of the total value of all ET86 entries covered goods subject to tariffs imposed under

Section 301. According to CBP statistics, the total value of all imports claiming the administrative exemption in FY 2023 was \$54.6 billion. We assume that the share of the total value of qualifying low-value shipments containing goods subject to Section 301 tariffs was the same for entries entered under the “release from manifest” process as compared to type 86 entries. With this assumption, we estimate that the total value of all qualifying low-value shipments that would have been subject to Section 301 tariffs in fiscal year 2023 was \$41.1 billion. The total value of type 01 and 11 entries covered by Section 301 tariffs that same year was \$215.9 billion. Hence, we estimate that qualifying low-value shipments made up 16.0 percent of the total value of goods covered by Section 301 tariffs. This rule would therefore strengthen the incentive for China to eliminate its acts, policies, and practices related to technology transfer, intellectual property, and innovation that are unreasonable or discriminatory and burden or restrict U.S. commerce.

Targeting of Violative Shipments

In addition to the primary benefit of this regulation, strengthening U.S. trade and national security actions, the proposed rule will also support CBP's efforts to identify and intercept items violating import laws and regulations. The proposed rule would require all shipments claiming the administrative exemption under 19 U.S.C. 1321(a)(2)(C), entered under either the proposed new basic or the proposed new enhanced entry process, to provide a 10-digit HTSUS classification for the merchandise within the shipment. In the absence of the proposed modification to the rule as proposed in the ELVS NPRM, basic entries would not be required to provide 10-digit HTSUS classifications. This additional data element would allow CBP to more effectively target and screen basic entries in order to identify violative shipments (e.g., prohibited items that are not allowed to enter the United States and other items ineligible for entry under the administrative exemption). CBP seizure statistics show that low-value shipments pose a security concern when compared to type 01 and 11 entries. In particular, CBP finds that goods claiming the administrative exemption have higher seizure rates for narcotics, IPR violations, and prohibited items than goods entered through entry type 01 and 11. See Section 5 of the standalone RIA for more details on the security concerns posed by low-value shipments. Imports claiming the administrative exemption made up 87 percent of total seizures in fiscal year 2023.

Macroeconomic and Distributional Effects

We estimate the macro-economic and distributional effects of the proposed rule using USAGE-TERM, a computable general equilibrium (CGE) model of the United States. At its most disaggregate level USAGE-TERM tracks variables like inputs, output, employment, investment, trade, and prices for 513 sectors in 70 regions across the U.S. A summary of the results of the CGE analysis follows:

- In the low impact scenario, we estimate that the average price of imported goods would be 0.29% higher. We estimate that consumer prices would be 0.10% higher in year 1 and 0.12% higher in year 10.
- We estimate consumer welfare losses of \$9.5 billion in year 1, shrinking to \$6.7 billion in year 10.
- We estimate a decrease in GDP, compared to the baseline, of 0.03% in both year 1 and year 10.
- Sectors that benefit from the proposed rule, like apparel, textiles, and leather, would see job growth. These sectors would employ 5,900 more people in year 1, and 3,900 more people in year 10 compared to the baseline.
- We did not explicitly model the impacts on the logistics and express sectors. To the extent that consumers use more logistics and express services we would expect these sectors to benefit from the proposed rule.
- These job gains, which could be a result of new jobs being created or fewer job separations, would be offset by a net reduction of jobs in other sectors. On net, the U.S. economy would have 97,000 fewer jobs in year 1, due to an increase in job separations and a

reduction in new hires. By year 10 the economy would return to full employment.⁴⁶

- In the high impact scenario, we estimate that the average price of imported goods would be 0.51% higher. We estimate consumer prices would be 0.17% higher in year 1 and 0.21% higher in year 10.
- In the high impact scenario, we estimate consumer welfare losses of \$16.5 billion in year 1, shrinking to \$11.6 billion in year 10.
- We estimate a decrease in GDP, compared to the baseline growth of GDP, compared to the baseline, of 0.06% in year 1 and 0.05% in year 10.
- Sectors that benefit from the proposed rule, like apparel, textiles, and leather, would see job growth. These sectors would employ 9,700 more people in year 1, and 6,400 more people in year 10 compared to the baseline.
- These job gains would be offset by fewer jobs in other sectors. On net, the U.S. economy would have 136,000 fewer jobs in year 1, due to an increase in job separations and a reduction in new hires. By year 10 the economy would return to full employment.

B. Additional Requirements for Regulatory Analysis

Table 4 provides a cost accounting statement for the proposed rule. Estimates correspond to the low-impact scenario based on our understanding that many low-value shipments are likely to be consolidated under the proposed rule to lessen costs associated with fees. Therefore, CBP considers the low-impact scenario as the primary estimate of the impact of this proposed rule.

TABLE 4—A-4 ACCOUNTING STATEMENT FOR THE PROPOSED RULE

Category	Annualized estimate (in 2024 dollars)	Source citation
Benefits		
Monetized benefits	None	RIA, Chapter 5.
Quantified, non-monetized benefits	None.	
Qualitative (unquantified) benefits	Greater enforcement/effectiveness by requiring goods with 232, 201, and 301 duties to utilize entry types subject to duty payment. Improved targeting of violative shipments by requiring certain qualifying low-value shipments to provide HTSUS codes that describe the contents of the entry. In certain cases, CBP estimates that consolidation of shipments would lead to faster merchandise release, enhanced national security and improved health and safety.	
Costs		
Monetized costs	\$10.9 billion (low scenario) or \$19.7 billion (high scenario) in consumer surplus loss.	RIA, Chapter 3.
Quantified, non-monetized costs	None.	

⁴⁶For context, in 2023, 68.1 million U.S. workers separated from their job, either voluntarily or involuntarily. But in 2023, 70.8 million workers

were hired at new jobs, leading to the economy adding about 2.7 million jobs on net. These estimates suggest that if the proposed rule had been

first active in 2023, the economy would have added about 2.6 million jobs on net instead.

TABLE 4—A—4 ACCOUNTING STATEMENT FOR THE PROPOSED RULE—Continued

Category	Annualized estimate (in 2024 dollars)	Source citation
Qualitative (unquantified) costs	None.	
Cost Savings Monetized costs	None.	
Quantified, non-monetized cost savings	None.	
Qualitative (unquantified) cost savings ...	None.	
Transfers		
Monetized budgetary transfers	None	RIA, Chapter 3.
Other monetized transfers	\$8.5 billion (low scenario) or \$6.4 billion (high scenario) in additional duty revenue, paid for by U.S. consumers assuming full pass-through by foreign producers and returned to consumers to offset consumer surplus loss.	
Distributional Effects		
Effects on State, local, and/or tribal governments. Effects on small businesses	The proposed rule affects consumers, which could include anyone in the United States, including businesses, not-for-profit organizations, government jurisdictions, as well as individuals. As a result, a substantial number of small entities are likely to be affected. Prices for an individual affected low-value shipment could increase by 12.2 to 31.2 percent, depending on whether only tariffs or tariffs plus broker fees are incurred, the type of carrier transporting the shipment into the United States, and the underlying value of the shipment. Lacking readily-available information describing the number of qualifying low-value shipments and their value imported annually by small entities, CBP cannot certify this rule under the Regulatory Flexibility Act at this time. Instead, it conducts an Initial Regulatory Flexibility Analysis (IRFA).	RIA, Chapter 6.
Effects on inflation	Inflation increases by between 0.1% and 0.17% in year 1	
Effects on growth	GDP growth is 0.03% lower in year 1	RIA, Chapter 4. RIA, Chapter 4.

Note: Present value calculations use 2025 as the base year. Costs are annualized over 10 years from 2025 to 2034 and reflect a 2 percent discount rate.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et. seq.*) (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires agencies to assess the impact of regulations on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

Under the requirements of the RFA, as amended by SBREFA and Executive Order 13272 entitled “Proper Consideration of Small Entities in Agency Rulemaking,” agencies must consider the potential impact of proposed regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules.

Specifically, CBP is required to prepare an RFA analysis and take other steps to assist small entities, unless it certifies that the rule will not have a “significant economic impact on a substantial number of small entities.” The Small Business Administration (SBA) provides guidelines on the analytical process used to assess the

impact of a particular rulemaking on small entities. Generally, an agency first conducts a threshold analysis to determine whether it can certify the proposed rule. The threshold analysis provides the factual basis for such a determination. If the results of the threshold analysis indicate that a rule may have a significant impact on a substantial number of small entities, or if the agency is uncertain, it is required to prepare an Initial Regulatory Flexibility Analysis (IRFA) and publish the IRFA for public comment with the proposed rule. The analytic components of an IRFA are:

1. A description of the reasons why action by the agency is being considered;
2. A succinct statement of the objectives of, and legal basis for, the proposed rule;
3. A description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
4. A description of the projected reporting, record-keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
5. An identification, to the extent practicable, of all relevant Federal rules

which may duplicate, overlap or conflict with the proposed rule;

6. A description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed rule on small entities, such as,

- the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
- the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
- the use of performance rather than design standards; and,
- an exemption from coverage of the rule, or any part thereof, for such small entities.

This section presents data and analysis in support of these requirements. First, we provide an overview of the proposed rule, and then we conduct the threshold analysis in Section 6.2 of the RIA. Because the significance of impacts of the proposed rule on small entities is uncertain, we also prepare an IRFA in Section 6.3 of the RIA.

Overview of the Proposed Rule

This proposed rule makes merchandise subject to an *ad valorem* tariff pursuant to a trade or national

security action under Section 232, 201, or 301 ineligible for the administrative exemption in 19 U.S.C. 1321(a)(2)(C).

Such shipments would instead need to be entered through an alternate entry type, such as entry type 01 (formal) or entry type 11 (informal). Importers of such goods would then have to pay both the additional duties owed under a specified trade or national security action and regular customs duties, if applicable, when the value is below \$800. To enable CBP to determine which entries are ineligible, CBP would require a 10-digit Harmonized Tariff Schedule of the United States (HTSUS) classification for all shipments of merchandise entered using the basic or enhanced entry processes proposed in the ELVS NPRM and claiming the administrative exemption. In the ELVS NPRM, CBP proposed to require that HTSUS codes be collected for qualifying low-value shipments entered through an enhanced entry process. Modifying these changes proposed in ELVS, this Trade and National Security Actions and Low-Value Shipments NPRM would expand that requirement to low-value shipments entered through the basic entry process proposed in ELVS, by requiring the provision of a 10-digit HTSUS code(s) on the bill of lading or other entry document.

This proposed rule would strengthen the United States' trade and national security actions, especially for Section 301 tariffs. For example, the goal of the current Section 301 tariffs is to discourage China's acts, policies, and practices related to technology transfer, intellectual property, and innovation that are unreasonable or discriminatory and burden or restrict U.S. commerce. Additionally, trade and national security actions can be used to protect domestic industries from substantial threat of serious injury, or the threat thereof by import surges or adjust imports that threaten to impair national security. An industry that is particularly vulnerable to circumvention by qualifying low-value shipments is the U.S. textile and apparel manufacturing industry. A large volume of textile and apparel imports claim the administrative exemption thereby avoiding tariffs. Specifically, approximately 50 percent of the value of current qualifying low-value shipments is attributed to textiles and apparel that would otherwise be subject to additional duties under Section 301.⁴⁷

⁴⁷ Proportion of qualifying low-value shipments containing Section 301 textile and apparel items is calculated using data on type 86 entries provided by CBP via email on August 14, 2024. We assume that qualifying low-value shipments cleared off the

Broadly speaking, an estimated 15.9 percent of imports covered by Section 232, 201, and 301 tariffs are exempt from the additional tariffs under the administrative exemption.⁴⁸ By including imports that would have been eligible for the administrative exemption without this rule, CBP would increase the effectiveness of these specified trade and national security actions. These actions would help protect national security and discourage unreasonable or discriminatory practices.

This rule would also increase CBP's inspection efficiency by shifting a large share of low-value shipments into alternative entry types. Qualifying low-value entries are more challenging for CBP to efficiently inspect than other entry types because they arrive with more limited data. As a result, CBP officers must do more work to ensure a low-value shipment is admissible and otherwise complies with applicable U.S. trade laws and regulations. Shipments entered using entry type 01 or entry type 11, in contrast, arrive with more detailed information about the contents of the goods included in the shipment.

Furthermore, shifting low-value shipments to an alternative entry type is likely to result in consolidation of multiple items into a single shipment. Specifically, the \$800 limit for qualifying low-value shipments incentivizes importers to de-consolidate goods into numerous low-value shipments to avoid paying tariffs. Absent the ability to avoid tariffs, importers are likely to be incentivized to reduce per-unit shipping costs by consolidating items in bulk shipments. This consolidation results in fewer, higher value entries, where multiple items can be reviewed by CBP officers at the same time.

Finally, the proposed rule is likely to improve CBP's ability to accurately identify the contents of a shipment claiming the administrative exemption even if it does not contain goods subject to a trade or national security action under Section 232, 201, or 301. Many of these goods currently use manifest clearance to enter the United States. The "release from manifest" entry process (or the proposed new basic entry) is (or would be) less costly for importers, because less information is submitted to CBP, but the release of shipments by CBP is slower, averaging 3 days.⁴⁹ In

manifest are similar in nature to goods using type 86 entry.

⁴⁸ See Chapter 5 of the RIA available in the docket of this rulemaking for sources and estimation method.

⁴⁹ See the ELVS Regulatory Analysis supporting the NPRM.

contrast, shipments using entry types 01 or 11, or the current entry type 86 (or the proposed new enhanced entry), are (or would be) typically released by CBP within 1 day. This proposed rule would require a 10-digit HTSUS classification for all basic entry shipments. As a result, importers will likely opt for enhanced entry, with its faster clearance times, given that the difference in administrative costs between basic and enhanced will become negligible. Having the HTSUS classification, along with several additional data elements required for enhanced entry, will improve CBP's ability to identify violative shipments. Furthermore, because enhanced entry is an automated process with required data elements being submitted in advance of the shipment's arrival in the United States, additional efficiency gains for CBP officers and importers are likely.

Threshold Analysis

A threshold analysis conducted pursuant to RFA/SBREFA involves determining whether the proposed regulatory changes will significantly impact a substantial number of small entities subject to the regulation. Responding to this question requires understanding both: (1) the number of affected entities that are small; and (2) the economic impact on these small entities in the context of the proposed regulatory action.

Should the proposed rule go into effect, entities could be affected in two ways:

1. Imports subject to a trade or national security action under Section 232, 201, or 301 would no longer qualify for the administrative exemption in 19 U.S.C. 1321(a)(2)(C), which allows a shipment to be imported duty-free when the aggregate fair retail value in the country of shipment for articles imported into the United States on the same day and exempted from the payment of duty does not exceed the administrative exemption limit of \$800 per person per day. Consignees (*i.e.*, consumers) of these imports will pay higher prices for the goods resulting from tariffs and, possibly, additional processing fees.

2. Paperwork for other imported goods using the administrative exemption will need to include HTSUS codes to facilitate CBP's ability to confirm that the goods are not covered by Section 232, 201, or 301 tariffs. Consignees of these imports will pay higher prices for the goods resulting from additional processing fees assessed by CBP and by licensed customs brokers.

Judicial review of agency compliance with the RFA requirements limits the scope of regulatory flexibility analyses to directly regulated entities (SBA 2017). In the case of the proposed rule, the entities that would have claimed the administrative exemption absent the proposed rule are considered directly regulated and therefore the subject of the threshold analysis. Here, consignees (*i.e.*, consumers) are the entities or individuals potentially eligible for the administrative exemption. As described in detail in Section 3.4 of the RIA, we assume that all duties and fees are incurred directly by consignees.

Consistent with the scenarios evaluated in the above sections, this section conducts the threshold analysis under two scenarios meant to act as upper and lower bounds of the effects of this proposed rule. These scenarios highlight the uncertainty regarding how importers will respond to the rule requirements:

- *Low Impact Scenario*: All importers respond to avoid fees. Importers of Section 232, 201, and 301 goods consolidate while importers of goods not subject to specified trade or national security actions either consolidate or move to postal. In this scenario, price increases are limited to required tariffs, because all other fees are assumed to be fully mitigated.

- *High Impact Scenario*: In this scenario, less consolidation of shipments occurs. As a result, in addition to tariffs, prices are also affected by higher fees. See Sections 3.3.1 and 3.3.2 of the RIA for detailed descriptions of the price shocks under each scenario.

Substantial Test

This section explores whether a substantial number of affected entities are small. The RFA does not provide a definition of a “substantial number.” In its guide to government describing how to comply with the RFA, the SBA states:

“Substantial number” depends on the number of regulated entities and the size of the regulated industry. The interpretation of the term “substantial number” is not likely to be five small firms in an industry with more than 1,000 small firms. On the other hand, it is important to recognize that five small firms in an industry with only 20 firms would be a substantial number.

Depending on the rule, the substantiality of the number of small businesses affected should be determined on an industry-specific basis and/or on the number of small businesses overall. (SBA 2017, p. 21.)

This analysis evaluates the extent to which a substantial number of

consignees that would become ineligible for the administrative exemption due to the proposed rule are small entities. Affected consignees could be anyone in the United States—including businesses, not-for-profit organizations, and government jurisdictions as well as individuals—that purchases a good valued at \$800 or less from a retailer that manufactures products outside of the United States. Individuals are not “entities” as defined by the RFA, and thus are excluded from this analysis.

All small entities in the United States have the potential to be affected by the proposed rule. As described in Chapter 3 of the standalone RIA document, the proposed rule affects products produced by 19 industries defined at the 3-digit North American Industry Classification System (NAICS) sector, with more than half of the affected goods coming from the apparel industry. Ideally, this analysis would rely on all historical low-value shipment transactions to characterize the entities most likely to be affected by the proposed rule. In the absence of that information, we characterize which industries are most likely to be affected, and which portion of consignees may be small entities, using data on consignees who imported goods using type 86 entries over the course of an example day in fiscal year 2023. This analysis relied on the following steps:

1. *Identify a sample of businesses that are consignees.* As noted above, we rely on a sample of shipments using type 86 entry for one day in fiscal year 2023 as a representative sample of consignees importing qualifying low-value shipments absent this rule. On this date, CBP identified nearly 1.2 million consignees associated with approximately 1.6 million type 86 entries. Within this list, CBP detected 786 likely businesses based on the names provided in the “header party” field and randomly selected 394 of these businesses for analysis.^{50 51}

2. *Obtain the business profiles of the consignees.* We uploaded the names and location information for the 394 businesses to D&B Hoovers’ website and relied on D&B Hoovers’ proprietary algorithm to match entities with the

⁵⁰ To detect businesses, CBP looked for entities that used the following key terms in their names: Inc., Co., LLC. Individuals with these letter combinations in their names were later manually screened out of the sample. CBP did not attempt to identify not-for-profit organizations or governmental jurisdictions in its consignee data. (Personal communication between IEC and CBP on July 6, 2023.)

⁵¹ Data pulled from ACE Reports on June 13, 2023 representing all consignees of type 86 entries on January 1, 2023. CBP provided the cleaned data to IEC via email on June 23, 2023.

information stored in its database.⁵² For the 394 businesses in our sample, D&B Hoovers’ search functionality was able to match profiles for 182 entities (46 percent). The 212 unmatched consignees either do not have business profiles in D&B Hoovers or the owner’s name and location information provided by CBP do not match the business records on the site. For the 182 matched entities, we collect primary NAICS code, number of employees,⁵³ and annual revenue information as presented in D&B.⁵⁴

3. *Determine which businesses in the sample are small businesses.* We compare number of employees and annual revenues with the SBA’s definitions of small business associated with each six-digit NAICS code (SBA 2023).⁵⁵

The 182 businesses in the sample are associated with 117 NAICS codes (6-digit) spanning many sectors. Table 5 provides a sample of NAICS codes represented by the consignee businesses to demonstrate the breadth of industries associated with type 86 entries on a given day. As shown in Table 6, the consignees organize into nearly every 2-digit sector NAICS code. Using the 6-digit NAICS codes for classification purposes, 92 percent of businesses in the sample qualify as small businesses.

Data from CBP does not identify the type of good associated with the consignees, therefore we are unable to differentiate between entities that would be affected by Section 301 tariffs (in both the low scenario and high scenario) and all other entities that would be affected by fees in the high scenario only.

Taken together, this analysis finds that a substantial number of small entities may be affected by the proposed rule.

⁵² This process relies on D&B Hoovers’ automated search functions to identify the business profiles associated with a list of businesses, not manual business-by-business searching. This search functionality is described in more detail in D&B Hoovers (2019, p. 25). This resource is available at <https://app.dnbhoovers.com/product/wp-content/uploads/2020/10/DB-Hoovers-User-Guide-920.pdf>.

⁵³ D&B Hoovers contains data fields for both “employees at single site” and “employees at all sites.” When both numbers are provided, we default to using the “employees at all sites” entry in order to capture the size of the larger parent company. When only the “employees at single site” information is available, we use that entry instead.

⁵⁴ The matched data was downloaded from D&B Hoovers on July 27, 2023, accessed via: app.dnbhoovers.com/login. We assume all data to be in 2023 dollars, consistent with the download date.

⁵⁵ In some cases, SBA provides a size standard for the NAICS code as well as an “exception” for a subset of businesses with specific activity types. This analysis does not consider the “exceptions” when classifying businesses as small.

TABLE 5—EXAMPLE NAICS CODES AMONG SAMPLED CONSIGNEES

NAICS code	Industry
111998	All Other Miscellaneous Crop Farming.
221118	Other Electric Power Generation.
236115	New Single-family Housing Construction.
238340	Tile and Terrazzo Contractors.
238910	Site Preparation Contractors.
238990	All Other Specialty Trade Contractors.
311615	Poultry Processing.
325199	All Other Basic Organic Chemical Manufacturing.
325412	Pharmaceutical Preparation Manufacturing.
325510	Paint and Coating Manufacturing.
325910	Printing Ink Manufacturing.
332312	Fabricated Structural Metal Manufacturing.
332322	Sheet Metal Work Manufacturing.
332710	Machine Shops.
333310	Commercial and Service Industry Machinery Manufacturing.
335313	Switchgear and Switchboard Apparatus Manufacturing.
339940	Office Supplies (except Paper) Manufacturing.
423110	Automobile and Other Motor Vehicle Merchant Wholesalers.
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers.
423110	Automobile and Other Motor Vehicle Merchant Wholesalers.
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers.
423110	Automobile and Other Motor Vehicle Merchant Wholesalers.
445110	Supermarkets and Other Grocery Retailers.
449110	Furniture Retailers.
449210	Electronics and Appliance Retailers.
531311	Residential Property Managers.
532111	Passenger Car Rental.
541618	Other Management Consulting Services.
561730	Landscaping Services.
611110	Elementary and Secondary Schools.
811111	General Automotive Repair.
811192	Car Washes.
812112	Beauty Salons.
812910	Pet Care (except Veterinary) Services.

Note: The NAICS codes presented in this table represent a sample of industries associated with entry type 86 consignees on a typical recent date, not a comprehensive list of all affected industries. See the main text for details.

TABLE 6—NUMBER OF SMALL BUSINESSES IN SAMPLE OF CONSIGNEES

Two-digit NAICS code ^a	Sector	Total businesses in sample	Small businesses in sample	Percent small
11	Agriculture, Forestry, Fishing and Hunting	1	1	100
22	Utilities	2	2	100
23	Construction	11	11	100
31	Manufacturing	2	1	50
32	Manufacturing	7	6	86
33	Manufacturing	17	16	94
42	Wholesale Trade	14	12	86
44	Retail Trade	23	22	96
45	Retail Trade	8	8	100
48	Transportation and Warehousing	5	5	100
49	Transportation and Warehousing	1	1	100
51	Information	5	5	100
52	Finance and Insurance	1	1	100
53	Real Estate and Rental and Leasing	5	5	100
54	Professional, Scientific, and Technical Services	21	20	95
55	Management of Companies and Enterprises	2	1	50
56	Administrative and Support and Waste Management and Remediation Services.	9	7	78
61	Educational Services	2	1	50
62	Health Care and Social Assistance	5	4	80
72	Accommodation and Food Services	6	5	83
81	Other Services (except Public Administration)	18	17	94
99	Unclassified ^b	17	17	100
Total		182	168	92

Sources: IEc analysis of 182 businesses named as consignees of type 86 entries for one day in 2023 (provided by CBP), business profiles from D&B Hoovers, and SBA small business size standards (SBA 2023). See text for details.

Notes:

1. While 2-digit NAICS codes are used for presentation purposes, the 6-digit NAICS codes were used to determine which businesses are small.
2. All businesses identified with NAICS code 999990 in D&B Hoovers are presumed small.

Significance Test

This section tests whether the effects of the rule would be significant for the small entities identified above. The RFA does not define a “significant effect” in quantitative terms. In its guidance to agencies on how to comply with the RFA, SBA states,

[i]n the absence of statutory specificity, what is ‘significant’ will vary depending on the economics of the industry or sector to be regulated. The agency is in the best position to gauge the small entity impacts of its regulation. (SBA 2017, p. 18.)

DHS component agencies typically assume that an annual per entity cost exceeding 1 percent of the annual gross revenues for that entity is significant (Houser 2012). Therefore, this analysis

considers the 1 percent threshold when analyzing these potential impacts.

To accurately assess whether small entity consignees are likely to be significantly affected by the rule requires data on the total volume of affected shipments each entity is likely to purchase. Data describing total historical qualifying low-value shipment volume for the 168 small businesses in the sample of consignees provided by CBP is not readily available. Instead, we compare the value of the shipments with the percent increase in cost considering Section 301 tariffs (for the low and high scenarios) as well as the increased fees associated with entry (for the high scenario only). While the value of a shipment is not a measure of revenue, it provides a proxy for the capacity of entities to absorb the potential increases in shipment costs.

Low Impact Scenario

In the low impact scenario, qualifying low-value shipments formerly claiming the administrative exemption incur tariffs averaging 21.25 percent on an *ad valorem* basis (see Chapter 3 in the standalone RIA available in the docket of this rulemaking). As described in Chapter 3, we assume consignees incur 100 percent of the tariff. Table 7 presents the distribution of affected shipments by shipment value, using entry type 86 shipments imported in fiscal year 2023 as a representative sample (*i.e.*, the exact distribution may differ for shipments cleared off the manifest that would have entered with an administrative exemption in the baseline).

TABLE 7—DISTRIBUTION OF QUALIFYING LOW-VALUE SHIPMENTS BY SHIPMENT VALUE

Shipment value bin	Mid-point of shipment value	% of total entry type 86 shipments
\$0–\$5	\$2.50	18.5
\$6–\$25	15.50	43.0
\$26–\$50	38.00	20.0
\$51–\$75	63.00	8.4
\$76–\$100	88.00	4.7
\$101–\$200	150.50	4.7
Over \$200	500.50	0.8

Source: IEC analysis of data provided by email from CBP on September 9, 2024.

Using the mid-point of shipment value for each bin, the weighted average value per shipment is approximately \$32. Applying the tariff rate likely to be incurred by consignees, we find that the increased cost per shipment is approximately \$6.80 (21.25 percent of \$32). We do not have readily available data on the number of affected shipments imported annually per entity. Therefore, it is uncertain whether tariff rates of this magnitude impose a significant impact on small entities importing these affected shipments

under the low scenario. However, a 21.25 percent increase in the cost of importing affected goods represents a significant impact relative to the value of the shipment.

High Impact Scenario

In the high impact scenario, consignees of affected low-value shipments experience price increases resulting from the tariffs described above in the low impact scenario. Additionally, some consignees incur additional price increases resulting from

fees required to file and process shipments (for a detailed description see Chapter 3 in the standalone RIA available in the docket of this rulemaking). Table 8 summarizes the additional per shipment fees that might be incurred, depending on the carrier providing shipping services. None or some combination of these fees apply, depending on whether the shipment includes a good subject to additional Section 232, 201, or 301 duties, and whether a broker is already involved in the shipping process in the baseline.

TABLE 8—PER SHIPMENT FEES

Type	Fee (\$/shipment)
Broker fee: ¹	
Commercial non-express carrier ²	\$1.00
Express commercial carrier ³	30.00
Postal carrier ³	8.55
Merchandise Processing Fee: ⁴	
All	2.53

Sources and assumptions:

¹ A licensed broker is not currently required for the “release from manifest” entry process, nor would the ELVS NPRM require one for the basic entry process if the ELVS NPRM is finalized as proposed. We assume for the purposes of this analysis that a broker fee is charged for any entry requiring an HTSUS code and is similar regardless of whether the filer uses enhanced entry, entry type 86, 01, or 11. (Source: Personal communication with representatives of a major broker association on 9/26/2024.)

² Email from CBP dated 10/11/2024.

³ Faigelbaum and Khandelwal (2024).

⁴ Minimum merchandise processing fee for informal entries as of October 1, 2023. (As viewed on 10/11/2024 on <https://www.federalregister.gov/documents/2023/07/28/2023-16197/cobra-fees-to-be-adjusted-for-inflation-in-fiscal-year-2024-cbp-dec-23-08>.) Informal entries apply to shipments that do not exceed \$2,500 and is the entry option most likely to be used for shipments currently exercising the administrative exemption (*i.e.*, shipments that do not exceed \$800).

Relying on the detailed information characterizing shipment/fee combinations provided in Chapter 3 in the standalone RIA (available in the docket of this rulemaking) we find:

- Approximately 73 percent of qualifying low-value shipments do not experience increases in fees; only additional tariffs will apply.
- Among the commercial non-express carriers, only the consignees with shipments moving from manifest clearance to enhanced are expected to incur increased fees. This bin represents approximately 4 percent of total qualifying low-value shipment volume. Increased fees range from 1 percent to 40 percent of the value of the shipment.
- Among express commercial carriers, nearly all shipments will incur additional fees, ranging from 1 percent to 1,301 percent of the value of the shipment. These fees are in addition to the tariffs described above. The affected shipments represent 18 percent of total qualifying low-value shipments.
- For postal, only shipments containing Section 232, 201, and 301 goods experience additional fees. These shipments represent approximately 6 percent of total low-value shipment volume. Increased fees range from 2 percent to 443 percent of the shipment value, and are in addition to tariffs.

As described in the low impact scenario, data describing the number, value, and entry mode of qualifying low-value shipments by consignee is not readily available. Therefore, we are uncertain whether tariffs and fees of this magnitude impose a significant impact on the annual revenues of small entities importing these affected shipments. However, the value of fees and tariffs relative to the value of individual shipments suggests the potential for a significant increase in the price of affected goods. Given that options exist for reducing fees, such as consolidation, and are likely to be available for many shipments, we believe the low impact scenario is more likely.

D. Initial Regulatory Flexibility Analysis (IRFA)

Due to uncertainty regarding whether impacts to various small entities are significant, CBP does not certify that this rule has a significant economic

impact on a substantial number of small entities and we instead provide information in this section for an IRFA.

1. A description of the reasons why action by the agency is being considered.

U.S. trade law authorizes the President or USTR to assess additional tariffs under certain acts of Congress, including the Trade Expansion Act of 1962 and the Trade Act of 1974. Section 232 of the Trade Expansion Act of 1962 authorizes the President to adjust imports of an article and its derivatives if there is a determination that the article is being imported in such quantities or under such circumstances as to threaten to impair the national security. Section 201 of the Trade Act of 1974 authorizes the President to impose temporary trade measures if there is substantial cause of serious injury or threat thereof to U.S. industries because of increased imports. Lastly, Section 301 of the Trade Act of 1974 allows USTR to impose import restrictions to address, among others, unreasonable or discriminatory acts, policies, or practices that burden or restrict U.S. commerce. This proposed rulemaking will refer to Section 232, 201, or 301 as “specified trade or national security actions.”

Trade or national security actions are designed to protect domestic industries and the American public from serious injury, or the threat thereof, caused by import surges and unfair trade practices or to adjust imports that threaten to impair national security, or to encourage foreign governments to eliminate policies that are unreasonable or discriminatory and burden or restrict U.S. commerce. However, some merchandise subject to specified trade or national security actions may also be eligible for the administrative exemption pursuant to Section 321 of the Trade Act of 1930, as amended (19 U.S.C. 1321(a)(2)). Section 321 provides administrative exemptions from duty and taxes that are imposed by reason of importation for three categories of imported articles:

- Certain bona-fide gifts valued at \$100 or less (\$200, if the gift was from certain island possessions) sent from persons in foreign countries to persons in the United States;

- Certain personal or household articles valued at \$200 or less accompanying persons arriving in the United States; and

- All other imported articles when the aggregate fair retail value of the articles in the country of shipment is \$800 or less.

This proposed rulemaking concerns shipments in the third category, which are covered by the administrative exemption in 19 U.S.C. 1321(a)(2)(C). To avoid confusion with the other two administrative exemptions, we will refer to this exemption alone as the “administrative exemption.” Specifically, the administrative exemption allows a shipment to be imported free of duties and taxes imposed upon or by reason of importation when the aggregate fair retail value in the country of shipment of articles imported by the same person on the same day and exempted from the payment of duty is less than or equal to \$800. The administrative exemption limit was originally set at \$1 in the Customs Administrative Act of 1938 to limit the “expense and inconvenience” of collecting duty when it was a disproportionate amount of work by the U.S. government compared to the amount of revenue that would be collected. Since its inception, Congress has increased this daily aggregate value cap to \$5 in 1978, \$200 in 1993, and \$800 in 2016. In recent years, the volume of imports subject to specified trade or national security actions has increased, but the tariffs imposed as a result of these actions do not apply to imports that enter as qualifying low-value shipments. Thus, the administrative exemption dampens the impact of specified trade or national security actions by allowing imports that claim the exemption to legally avoid all duties and taxes that would otherwise be collected, including the additional duties collected under specified trade and national security actions. In fiscal year 2023, hundreds of thousands of shipments would have been assessed additional tariffs under Section 232, 201, or 301 had they entered through formal or other type of informal entry.

Additionally, low-value shipments create operational inefficiencies for

CBP's ability to conduct an inspection of these goods. The volume of qualifying low-value shipments has risen sharply from approximately 139 million in fiscal year 2015 (prior to the increase in the exemption value) to 1 billion shipments per year in fiscal year 2023.⁵⁶ While entry type 86 has sped up processing for many of the qualifying low-value shipments, the remaining shipments are processed manually and with more limited data than other types of entries. CBP anticipates that this rulemaking would reduce the volume of qualifying low-value shipments and thereby increase the efficiency with which CBP identifies imports presenting security risks, including curbing the smuggling of illegal opioids such as heroin and fentanyl, by shifting some shipments to other entry types that require more data and the use of an authorized broker.

2. A succinct statement of the objectives of, and legal basis for, the proposed rule.

The proposed rulemaking aims to uphold the objectives of U.S. trade and national security actions, protect the revenue, and prevent unlawful importations. Trade or national security actions, such as additional tariffs under Section 232, Section 201, and Section 301, are meant to prevent specific harms such as the threat posed by certain imports to national security or domestic industries or to respond to discriminatory or unreasonable practices that restrict or burden U.S. commerce. The rule would prevent low-value shipments from circumventing these trade or national security actions by claiming the administrative exemption. Moreover, considering the rate of duties and the aggregate trade volume of affected imports, the amount of additional revenue to be collected under the proposed rule would substantially outweigh any added expense or inconvenience to the U.S. Government. Finally, CBP expects that the affected goods would be consolidated into larger shipments and entered under an appropriate formal or informal entry process, resulting in decreased overall volume of shipments. This consolidation would help CBP officers inspect entries for inadmissible merchandise more efficiently.

The authority to except merchandise subject to specified trade or national security actions from the administrative exemption comes from 19 U.S.C. 1321(b). This statutory provision authorizes regulations that except certain merchandise from eligibility for the administrative exemptions in 19

U.S.C. 1321(a) when such exceptions are consistent with the purpose of 19 U.S.C. 1321(a), or necessary to protect the revenue or to prevent unlawful importations. The authority to require HTSUS classification as part of the proposed basic entry process (in addition to the proposed enhanced entry process) as described in the ELVS NPRM comes from 19 U.S.C. 498(a)(1)(A), which authorizes the prescription of special rules for the declaration and entry of low-value shipments.

3. A description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply.

As described in Section 6.2.1 of the standalone RIA, the proposed rule does not directly regulate any one industry. Instead, it 1) imposes additional requirements on shipments that seek to use the administrative exemption, and 2) makes goods subject to *ad valorem* tariffs under Section 232, 201, and 301 ineligible for the administrative exemption. Therefore, any individual or entity that would have claimed the administrative exception in the baseline is affected by the proposed rule. Those individuals and entities importing goods that previously met the requirements for the administrative exemption are likely to be affected by higher prices for these goods.

Any small entity in the United States has the potential to be affected by the rule as a consignee. Analysis of a sample of consignees of shipments using type 86 entry for one day in 2023 demonstrates that 92 percent of businesses in the sample qualify as small.

4. A description of the projected reporting, record-keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The proposed rule would add a reporting requirement to the basic entry process beyond the proposed requirements described in the ELVS NPRM. Under this rule, the 10-digit HTSUS classification would need to be reported with the entry filing for each product in a basic entry. The 10-digit HTSUS classification reporting requirement is already proposed for enhanced entry in the ELVS NPRM. Any small entity that would import a low-value shipment subject to specified trade or national security actions through basic entry in the absence of this rule would be affected by this new requirement. This would include both

small businesses and individual consumers. Reporting the HTSUS codes requires the ability to determine the merchandise's HTSUS codes. We expect most importers to hire a licensed customs broker to determine the HTSUS codes and file the entry.

5. An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

This proposed rule would not conflict with any relevant Federal rules. This NPRM does, however, propose amendments to another NPRM's proposed amendments. The ELVS NPRM proposes the creation of a new entry process for entering low-value shipments, referred to as the "enhanced entry process," which would allow CBP to target high-risk shipments more effectively. The ELVS NPRM also proposes revisions to the current process for entering low-value shipments cleared off the manifest, referred to as the "basic entry process," to require additional data elements that would assist CBP in verifying eligibility for duty- and tax-free entry. For more information about the ELVS NPRM and its effects, please see [regulations.gov](https://www.regulations.gov) for the rule and the accompanying regulatory analysis.

6. A description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed rule on small entities.

In addition to the preferred regulatory alternative (the proposed rule), CBP also considered two other alternatives.

- First, CBP considered a more stringent alternative where all shipments except for bona fide gifts under 19 U.S.C. 1321(a)(2)(A) would be prohibited from claiming the administrative exemption. Although this alternative is not modeled in this analysis, CBP anticipates the incremental welfare loss and gain in tariff revenue under this alternative would be greater than those under the proposed rule because more shipments would be affected. Therefore, this alternative has the potential to increase impacts on small entities.

- Second, CBP considered an alternative identical to the proposed rule but with an additional requirement that HTSUS codes be required for postal shipments entered by USPS. This alternative is not feasible because the collection of HTSUS codes in the postal environment is currently restricted by U.S. obligations under the Universal Postal Union. Therefore, this alternative would not meet the stated objectives of the proposed rule.

⁵⁶ Data pulled from CBP's Automated Targeting System (ATS) database.

E. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget (OMB). The collection of information contained in this proposed rule, will be submitted to OMB for review under section 3507(d) of the Paperwork Reduction Act (PRA). The public can direct comments to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Customs and Border Protection. Such comments can be submitted in the regulatory docket for this proposed rule.

This rule, if finalized, would make low-value shipments subject to specified trade or national security actions ineligible for the administrative exemption, resulting in a change to OMB-approved collection 1651–0024 beyond the changes proposed in the Entry of Low-Value Shipments NPRM. Under the changes to the information collection in that NPRM, basic entries do not have a time burden as they have no data requirement beyond what is submitted on the bill of lading, whereas CBP reports separate burden estimates for Form 3461s filed on paper, Form 3461s and Form 3461ALTs filed electronically, and enhanced entries filed electronically.

The proposed rule would require all entries using the basic entry process (as described in the ELVS NPRM) to provide a 10-digit HTSUS code to facilitate CBP's ability to confirm eligibility for the administrative exemption. Shipments found ineligible would need to refile under formal or other type of informal entry to enter the merchandise (excluding enhanced or basic entry), leading to a decrease in both basic and enhanced entries. Because the HTSUS code will be required for all shipments entered using the basic or enhanced entry process (subject to waiver in certain circumstances, as detailed in the Entry of Low-Value Shipments NPRM), there is less of a difference in the filing requirements between basic and enhanced entries, so we expect some basic entries to shift to enhanced entries. As a result, we will see a change in the number of responses for Form 3461, 3461ALT; Excluding Enhanced, and enhanced entries. CBP does not expect a change in the number of respondents as a result of this rule.

As low-value shipments subject to specified trade or national security

actions are made ineligible for the administrative exemption, importers will have to file entry under formal or other type of informal entry (excluding enhanced or basic entry) and fill out Form 3461, 3461ALT (excluding enhanced). As low-value shipments shift away from basic or enhanced, CBP and brokers expect them to reconsolidate into larger shipments. CBP does not know the level of consolidation that will occur, and it is not estimated in the main analysis of this rulemaking, but subject matter experts in the trade community that CBP interviewed as part of the economic analysis report that they expect enough consolidation to occur that this rule will not result in additional time burden for the public and that it may even result in time savings. In keeping with that information, CBP is adjusting its estimates of the filings to reflect a level of consolidation at which the time burden to the public breaks even as a result of this rule. CBP will revisit these estimates when it renews this information collection. Upon finalization of this proposed rule, OMB-approved collection 1651–0024 will be revised to reflect the increased burden hours as follows:

Paper Only Entry/Immediate Delivery Form 3461

Estimated Number of Respondents: 1,669.

Estimated Number of Total Annual Responses: 33,923.

Estimated Time per Response: 0.25 hours (15 minutes).

Estimated Total Annual Burden Hours: 8,481.

ACE Cargo Release Electronic Submission

Form 3461 and 3461ALT Excluding Enhanced Entry

Estimated Number of Respondents: 6,580.

Estimated Number of Total Annual Responses: 23,027,005.

Estimated Time per Response: 0.17 hours (10 minutes).

Estimated Total Annual Burden Hours: 3,837,834.

Enhanced Entry

Estimated Number of Respondents: 535.

Estimated Number of Total Annual Responses: 242,230,193.

Estimated Time per Response: 0 hours (0.0007 minutes).

Estimated Total Annual Burden Hours: 2,826.

F. National Environmental Policy Act

DHS and its components analyze actions to determine whether the National Environmental Policy Act of 1969 (“NEPA”), 42 U.S.C. 4321 *et seq.*, applies to these actions and, if so, what level of NEPA review is required. 42 U.S.C. 4336. DHS’s Directive 023–01, Revision 01 and Instruction Manual 023–01–001–01, Revision 01 (“Instruction Manual 023–01–001–01”) establish the procedures that DHS uses to comply with NEPA and the Council on Environmental Quality (“CEQ”) regulations for implementing NEPA, 40 CFR parts 1500 through 1508.⁵⁷

Federal agencies may establish categorical exclusions for categories of actions they determine normally do not significantly affect the quality of the human environment and, therefore, do not require the preparation of an Environmental Assessment or Environmental Impact Statement. 42 U.S.C. 4336e(1); *see also* 40 CFR 1501.4, 1507.3(c)(8), 1508.1(e). DHS has established categorical exclusions, which are listed in Appendix A of its Instruction Manual 023–01–001–01. Under DHS’s NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) the entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.

DHS has analyzed this action under Directive 023–01 and Instruction Manual 023–01–001–01. DHS has made a determination that this rulemaking action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. First, this proposed rule clearly fits within the Categorical Exclusions A3(a) and A3(d) of DHS’s Instruction Manual 023–01–001–01, Appendix A, for the promulgation of rules of a “strictly administrative or procedural nature” and rules that “interpret or amend an existing regulation without changing its environmental effect,” respectively. The proposed rule would create a new

⁵⁷ CBP is aware of the November 12, 2024 decision in *Marin Audubon Society v. Federal Aviation Administration*, No. 23–1067 (D.C. Cir. Nov. 12, 2024). To the extent that a court may conclude that CEQ regulations implementing NEPA are not judicially enforceable or binding on this agency action, CBP has nonetheless elected to follow those CEQ regulations, in addition to DHS’s Directive and Instruction Manual, to meet the agency’s obligations under NEPA, 42 U.S.C. 4321 *et seq.*

process for entering low-value shipments, allowing CBP to target high-risk shipments more effectively. The proposed rule would also revise the current process for entering low-value shipments to require additional data elements that would assist CBP in verifying eligibility for duty- and tax-free entry of low-value shipments and bona-fide gift. Second, this NPRM is not part of a larger action. Third, this NPRM presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, a more detailed NEPA review is not necessary. DHS seeks any comments or information that may lead to the discovery of any significant environmental effects from this NPRM.

Signing Authority

In accordance with Treasury Order 100–20, the Secretary of the Treasury delegated to the Secretary of Homeland Security the authority related to the customs revenue functions vested in the Secretary of the Treasury as set forth in 6 U.S.C. 212 and 215, subject to certain exceptions. This regulation is being issued in accordance with DHS Directive 07010.3, Revision 03.2, which delegates to the Commissioner of CBP the authority to prescribe and approve/sign regulations related to customs revenue functions. Pete Flores, Senior Official Performing the Duties of the Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign this document to the Director (or Acting Director, if applicable) of the Regulations and Disclosure Law Division of CBP, for purposes of publication in the **Federal Register**.

List of Subjects

19 CFR Part 10

Bonds, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 128

Administrative practice and procedure, Freight, Reporting and recordkeeping requirements.

19 CFR Part 143

Reporting and recordkeeping requirements.

Proposed Amendments to the CBP Regulations

For the reasons stated above in the preamble, CBP proposes to amend 19 CFR parts 10, 128, and 143 as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 4513.

* * * * *

■ 2. Amend § 10.153 by adding paragraph (j);

The addition reads as follows:

§ 10.153 Conditions for exemption.

* * * * *

(j) The exemption provided for in § 10.151 is not to be allowed with respect to imported merchandise covered in an action imposing additional duties pursuant to either Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), Section 201 of the Trade Act of 1974 (19 U.S.C. 2251 *et seq.*), or Section 301 of the Trade Act of 1974 (19 U.S.C. 2411 *et seq.*).

* * * * *

PART 128—EXPRESS CONSIGNMENTS

■ 3. The general authority citation for part 128 continues to read as follows:

Authority: 19 U.S.C. 58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

■ 4. Amend § 128.21 by revising paragraph (a)(4)(ii) to read as follows:

§ 128.21 Manifest requirements.

(a) * * *

(4) * * *

(ii) If the merchandise is eligible for, and is entered under, the informal entry procedures as provided in § 128.24, except for merchandise eligible to pass free of duty and tax as provided in § 128.24(f) and entered under § 143.23(k) of this chapter.

* * * * *

PART 143—SPECIAL ENTRY PROCEDURES

■ 5. The general authority citation for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1321, 1414, 1481, 1484, 1498, 1624, 1641.

■ 6. Amend § 143.23 by adding paragraph (k)(9) to read as follows:

§ 143.23 Form of entry.

* * * * *

(k) * * *

(9) The 10-digit classification of the merchandise in Chapters 1–97 (and additionally in Chapter 99, if

applicable) of the Harmonized Tariff Schedule of the United States (HTSUS), if entering merchandise meeting the requirements of 19 U.S.C. 1321(a)(2)(C) and § 10.151.

* * * * *

Robert F. Altneu,

Director, Regulations & Disclosure Law Division, Regulations & Rulings, Office of Trade, U.S. Customs and Border Protection.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 500

23 CFR Part 515

[FHWA Docket No. FHWA–2024–0048]

RIN 2125–AG00

Asset Management Plans; Management and Monitoring Systems

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The FHWA is extending the comment period for a notice of proposed rulemaking (NPRM) and request for comments, which was published on November 13, 2024. The original comment period is set to close on January 13, 2025. The extension is based on concerns expressed by stakeholders that the January 13, 2025, closing date does not provide sufficient time to review and provide comprehensive comments. The FHWA recognizes that others interested in commenting may have similar concerns and agrees that the comment period should be extended. Therefore, the closing date for comments is changed to February 12, 2025, which will provide stakeholders and others interested in commenting additional time to discuss, evaluate, and submit responses to the docket.

DATES: Comments must be received on or before February 12, 2025. Late comments will be considered to the extent practicable.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue SE., Washington, DC 20590, or submit electronically at <https://www.regulations.gov>. All comments should include the docket number that