



U.S. Customs and  
Border Protection

## **De Minimis Webinar Frequently Asked Questions (FAQs)**

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### **General Questions**

What goods are not permitted to be entered under Section 321?

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Section 321 does not allow:

- Merchandise subject to antidumping and countervailing duties.
- Merchandise subject to quota.
- Merchandise subject to a tax imposed under the Internal Revenue Code that is collected by other agencies on imported goods.
  - Alcoholic beverages and cigars (including cheroots and cigarillos) and cigarettes containing tobacco, cigarette tubes, cigarette papers, smoking tobacco (including water pipe tobacco, pipe tobacco, and roll-your-own tobacco), snuff, or chewing tobacco are not allowed

What is the responsibility of the importer?

Pursuant to the Customs Modernization Act, it is the responsibility of the importer to use “reasonable care” to “enter,” “classify” and “value” the goods and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether all other applicable legal requirements are met.

Can a company qualify as the "one person"?

Yes.

If products are exempt from PGA excise taxes, like personal use quantities of alcohol, can they be imported under section 321?

Merchandise subject to a tax imposed under the Internal Revenue Code that is collected by other agencies on imported goods is not allowed to be entered under Section 321.

- Alcoholic beverages and cigars (including cheroots and cigarillos) and cigarettes containing tobacco, cigarette tubes, cigarette papers, smoking tobacco (including water pipe tobacco, pipe tobacco, and roll-your-own tobacco), snuff, or chewing tobacco are not allowed.

In the case of certain personal or household articles accompanying persons arriving in the United States, those may be imported under Section 321.

Is there a limit to the number of Entry Type 86 entries a filer has filed or can file?

There is no limit on the number of Entry Type 86 entries a broker can file. However, the regulation does limit the use of Section 321 (including Entry Type 86) to shipments imported by “one person on one day” having an aggregate fair retail value in the country of shipment of \$800 or less.

Shipments with an aggregate value up to \$800 per day per person are allowed.

Examples:

- One person can import 4 shipments each valued at \$200 in one day
- One person can import 1 shipment a day valued at \$800 or less

Can one person import more than one shipment a day?

Under Section 321, one person may import multiple shipments on one day so long as the aggregate fair market value of the shipments does not exceed \$800. If any single shipment imported that day breaches the \$800 ceiling, then none of the shipments imported that day may be entered under Section 321.

Can carriers be subject to penalties if they are unable to limit customers from exceeding the \$800 threshold per day?

When a shipment exceeds the \$800 threshold, none of the shipments imported on that day by a known ultimate consignee, often a purchaser, are eligible for entry under Section 321. The shipments must instead be entered as a Type 11 informal or Type 01 formal entry.

We note that, if a carrier is affecting entry for a de minimis shipment by clearing a shipment off the manifest, they are subject to the standard of reasonable care. 19 C.F.R. § 143.26(b).

Can you provide additional clarification about power of attorney requirements?

Customs brokers must be duly designated to enter qualifying shipments through a valid power of attorney and must comply with all other applicable broker statutory and regulatory requirements. See 19 CFR 141.46; see e.g., 19 U.S.C. 1641; 19 U.S.C. 1484; 19 CFR part 111; 19 CFR part 141. The filing of Entry Type 86 is considered “customs business” under 19 U.S.C. 1641.

Can a manifest clearance be cancelled and re-entered under entry type "01"?

Yes.

What are the regulatory requirements for express consignment operators?

19 C.F.R. 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.

From a compliance viewpoint, are Section 321 shipments any worse than other entry types?

De minimis shipments pose the same risks as all other commercial cargo.

Can a corporation claim de minimis, if a shipment is going to a domestic warehouse or fulfillment center?

Yes, a corporation may be considered the importing “person” for unsold merchandise up to an aggregate fair retail value of \$800 per day. Please refer to CBP's [Administrative Ruling Related to Domestic Warehouses and Fulfillment Centers One Pager](#).

Is the recent data requirement of the zip code (China Made) for the creation of the MID, which went into effect in March, applicable for de minimis shipments?

A MID is not a required data element for de minimis shipments. However, the expansion of the Section 321 Data Pilot has included it as an optional element.

Can the ultimate consignee receiving the shipment be considered the importing “person”?

Yes, if they are identified on the bill of lading/manifest.

Is it permitted to split a shipment into smaller batches to claim the de minimis exemption?

No, the exemption will not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit.

How is CBP monitoring/reviewing de minimis shipments for anti-forced labor compliance?

CBP monitors/reviews shipments the same regardless of value.

Does the \$800 threshold apply per port?

No, the Section 321 monetary threshold applies to one person per day regardless of the port of arrival.

Is an ISF bond required when filing de minimis shipments?

Yes, ISF requirements for ocean freight remain the same for de minimis shipments.

Can goods subject to antidumping and countervailing duties (AD/CVD) enter via de minimis?

U.S. Customs and Border Protection has a ministerial role in AD/CVD and enforces the instructions of the U.S. Commerce Department(Commerce). Commerce’s instructions specifically direct CBP to assess AD/CVD on all entries for consumption of subject merchandise, without any exceptions. The AD/CVD statutes specifically apply to “all entries, or withdrawals from warehouse, for consumption of merchandise subject to a [AD/CVD] order on or after the date of publication of such order”, without any mention of the de minimis exemption. See 19 USC 1671h (CVD); 19 USC 1673g (AD).In addition, CBP has the authority to deny Section 321 entry and require a formal entry for any goods claiming de minimis exemptions, regardless of the value of the goods, under 19 C.F.R. § 143.22.

Are goods made with forced labor entering the U.S. as de minimis shipments?

CBP enforces the provisions of the UFLPA regardless of the value of the goods. Goods entered pursuant to Section 321 are thus not exempt from CBP's enforcement procedures.

## Entry Type 86

Are there plans to allow de minimis entries to declare PGA data?

The Entry Type 86 Test allows for submission of de minimis entries subject to partner government agency (PGA) data requirements.

Does an Entry Type 86 entry obligate (go onto) an importer's continuous importer bond (C1)?

Entry Type 86 does not require an importation and entry bond.

Can goods from China valued at or below \$800 but subject to Section 301 be cleared under Entry Type 86?

Yes.

Is country of origin a required data element for Entry Type 86?

"Country of origin" is a required data element for Entry Type 86.

Do Entry Type 86 entries require a power of attorney from the consignee?

Yes, for purposes of this test customs brokers must be authorized to conduct customs business on behalf of the owner, purchaser, or consignee of eligible shipments through a valid power of attorney.

Will ACE Manifest requirements still be required on Entry Type 86 (e.g., scac codes)?

All manifest requirements remain the same.

Which party is responsible for correcting Entry Type 86 entries?

The party who filed the data is responsible for correcting the data for purposes of Entry Type 86.

When will Entry Type 86 become mandatory?

Entry Type 86 Test is a voluntary pilot program. More information can be found at [84 FR 40079](#).

Can foreign vendors self-file Entry Type 86?

Yes. A foreign seller/vendor may be a nominal consignee arranging for shipment, or they may be the owner of the imported merchandise if it arrives to the U.S. unsold.

As an owner, they can self-file. As a consignee, they need to get a broker to file on their behalf as the IOR.

Does CBP require specific software to transmit Entry Type 86 entries?

ET86 shipments are transmitted in ACE the same as other entry types.

How many entry filers are using Entry Type 86?

Over 450 filers are participating in the Entry Type 86 Test.

How is the PGA data transmitted through Entry Type 86?

Any PGA data reporting requirements would be satisfied by the PGA Message Set and the filing of any supporting documentation via the Document Image System (DIS).

Who can file an Entry Type 86 entry?

Under the Entry Type 86 Test, the owner, purchaser, or a licensed Customs broker is required to file the entry.

If a party has three different filer codes, does the exemption apply to each filer code?

No, the exemption is not based on the filer code.

Can you hold cargo in a FTZ until customer purchases from ecommerce site, then file Entry Type 86?

A shipment may not be admitted into an FTZ, in order to be broken down into smaller shipments, because the value of the shipment is assessed at the time of importation, not entry. Moreover, 19 U.S.C. § 1321 specifically prohibits a shipment from being broken down in an effort to obtain duty free treatment. Additionally, retail trade is prohibited from occurring within an FTZ.

Are entries subject to Section 301 and 232 allowed under Entry Type 86?

Yes.

## Section 321 Data Pilot

Is the seller information, including seller ID, referenced in the Section 321 Data Pilot the same as MID?

No, the MID is the manufacturer identification code used to identify the manufacturer of the merchandise. The seller may or may not be the manufacturer. The Marketplace Seller Account Number/Seller ID as requested by the Section 321 Data Pilot is a unique identifier a marketplace assigns to sellers.

What is a "security scan" as referenced in the Data Pilot?

The shipment security scan under the Section 321 Data Pilot allows air carriers to submit verification that a foreign security scan for the shipment has been completed (such as an x-ray image or other security screening report).

What is the relationship between 321 Data Pilot and the Import Security Filing (ISF) and Air Cargo Advance Screening (ACAS)?

The Section 321 Data Pilot does not replace ISF or ACAS filings. All existing Trade Act of 2002 requirements and all manifest requirements continue to apply.

Is the Section 321 Data Pilot open to air shipments?

It is open to all modes of transportation.

What are the benefits of participating in the expanded Section 321 Pilot Program?

Participating in the data pilot expansion will:

- Allow additional companies the opportunity to develop processes for gathering the data from various sources in the supply chain to transmit a single and complete filing.
- Assist CBP in identifying future trade facilitation benefits.
- Continue to explore different and new technology that becomes available and can be incorporated into future regulation.

Who would provide the PGA data for a broker to clear Entry Type 86 entries that are already sold to an end consumer?

The party that hired the broker would provide the information.

Who is participating in the Section 321 Data Pilot?

The Section 321 Data Pilot was initially limited to nine trade entities:

- Marketplaces: Amazon, eBay, Zulily
- Carriers: FedEx, UPS, and DHL
- Logistics providers: BoxC Logistics, XB Fulfillment, PreClear (International Bridge)

CBP is soliciting additional participants for the data pilot. Please see [88 FR 10140](#) for additional details.

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