

OFFICE OF TRADE

21CCF Update

October 4, 2022



U.S. Customs and
Border Protection

Pre-Decisional

Consensus Status on 21CCF Legislative Framework

COAC Recommended that CBP Finalize

- 19 USC § 1484** – Provides CBP ability to receive entry-related data from traditional and non-traditional parties as it materializes in the supply chain (Reimagined Entry)
- 19 USC § 1321** – Authorizes CBP to collect data from additional parties in determining 321 eligibility
- 19 USC § 1498** – Authorizes CBP to promulgate regulations clarifying roles and responsibilities for filing de minimis entries
- 19 USC § 1415** – Authorizes CBP to use advance electronic data for any lawful purpose
- 19 USC § 1628a&b** – Allows CBP to share enforcement data with the Trade, including rights holders and parties that facilitate the sale or importation of merchandise into the U.S.
- 19 USC § 1508** – Clarifies recordkeeping requirements, including for e-commerce platforms and intermediaries
- 19 USC § 1509** – Clarifies CBP authorities on recordkeeping penalties and third-party summons
- 19 USC § 1499** – Allows abandonment of violative de minimis shipments where responses to detention notices are not received within 15 days
- 19 USC § 1514(a)(4)** – Clarifies avenue for CBP's enforcement of ITC Exclusion Orders
- 19 USC § 4320, 1498**– Allows CBP to prohibit suspended or debarred persons from importing into the U.S.
- 19 USC § 1526(e), 1595a(f), 1607 (Summary Forfeiture)** – Applies summary forfeiture to counterfeit goods, Schedule II-V controlled substances, any product not in compliance with the Federal Food and Drug Cosmetic Act, or prohibited goods as defined by (c)(2)(C)
- 19 USC § 1526(f)** – Expands CBP's ability to issue penalties as a result of interdiction
- 19 USC § 1436** – Expands 1436 penalties to include parties other than the master, person in charge of a vehicle or aircraft pilot

Consensus Status on 21CCF Legislative Framework

Discussions with Industry are On-going

19 USC § 1623 – Ensures that duties, taxes, and fees are fully secured by bonds in exchange for a regulatory information sharing regime with sureties

19 USC § 1517 – Permits CBP to disclose the importer not named in an EAPA allegation if reasonable suspicion exists that evasion has occurred

19 USC § 1595a(b) – Clarifies CBP's authority to assess penalties for unlawful imports notwithstanding a seizure

19 USC § 1595a(d)&(e) – Clarifies that CBP's seizure and forfeiture authority for unlawful exports is discretionary and provides authority to assess penalties for unlawful exports

19 USC § 1592 – Subsumes gross negligence within the definition of fraud. Allows discretion to issue-penalty notice when issuing fraud penalties.

COAC Recommended that CBP and Industry Agree to Disagree

19 USC § XXXX – Penalizes parties who intentionally destroy, hide assets, or alter evidence during an investigation

Industry Proposals

Statute	Description
19 U.S.C. § 1411	Ensure that all government agencies engaged on cross border transactions, be required by statute, to develop complementary and coordinated risk management processes, including the sharing of information; identifying and managing trusted traders; providing a single, true advanced, 1USG release at the border.
19 U.S.C. § 4316	Codify PGA engagement with trade, including COAC reporting to the existing Border Interagency Executive Council, establishing a framework that requires the PGAs engagement with and reporting to the trade
19 U.S.C. § 4311	Modify language to require for PGA's to develop and implement minimum security and compliance criteria, as well as related facilitation benefits in coordination with the existing CBP program. Leveraging the existing framework in place and layering on the specific PGA related elements required.
19 U.S.C. § 1484	Modify language so that it limits redelivery to recalls posing imminent health, safety or security concerns.
19 U.S.C. § 58c	Modify language to reduce MPF for CTPAT members and ensure MPF is allocated to CBP for operations and automation.
19 U.S.C. § 1431(c)	Modify language to treat manifest and customs declaration data as private and confidential business information by default vs requiring biannual requests for confidentiality.
Statute TBC	Language to appropriate the necessary amounts to carry out improvements in a uniform 1USG single window cargo admissibility, release, and summary, specifically related to improvements in the Automated Commercial Environment and the International Trade Data System and to carry out a government-wide CTPAT-PTGA program via the CBP CTPAT portal for each of fiscal years 2023 through 2027
19 U.S.C. §1484, §1431, and §1415	Concept related to facilitative data submission
19 U.S.C. § 1415	Modify language to limit the scope of advanced data from being used for "any lawful purpose" and language to CBP that provide notification to a party when there is knowledge that their data has been breached
19 U.S.C. § 1628	Language to direct CBP to share data with importers where it has reason to believe merchandise sought for entry is made with forced labor for purposes of enforcing 307 and to help importers eradicate practices from supply chains.
19 U.S.C. § 1629	Language to direct CBP create a pre-clearance process using resources stationed at foreign ports of departure.
6 U.S.C. § 943	Language to direct CBP to provide advance notification of detention prior to port arrival to allow importers to respond with evidence required to secure entry.
19 U.S.C. § 4317	Language to direct CBP to identify and provide direct access to importer and entry specialists on an industry-specific basis to streamline entry procedures for imports subject to WROs or findings.
Statute TBC	Language define as a condition precedent to any permissive language found in 1484, 1498, and 1321 that would extend the authority of the government to collect new data from new parties. We propose this to be a standalone statute that would reference the relevant entry statutes.



U.S. Customs and Border Protection