

SECURING THE INTERNATIONAL MAIL AGAINST OPIOIDS  
 ACT OF 2018

JUNE 8, 2018.—Ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means,  
 submitted the following

R E P O R T

[To accompany H.R. 5788]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5788) to provide for the processing by U.S. Customs and Border Protection of certain international mail shipments and to require the provision of advance electronic information on international mail shipments of mail, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Securing the International Mail Against Opioids Act of 2018”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Customs fees.
Sec. 3. Mandatory advance electronic information for postal shipments.
Sec. 4. International postal agreements.
Sec. 5. Cost recoupment.
Sec. 6. Development of technology to detect illicit narcotics.
Sec. 7. Effective date; regulations.

**SEC. 2. CUSTOMS FEES.**

(a) **IN GENERAL.**—Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended by adding at the end the following:

“(D)(i) With respect to the processing of items that are sent to the United States through the international postal network by ‘Inbound Express Mail service’ or ‘Inbound EMS’ (as that service is described in the mail classification schedule referred to in section 3631 of title 39, United States Code), the following payments are required:

“(I) \$1 per Inbound EMS item.

“(II) If an Inbound EMS item is formally entered, the fee provided for under subsection (a)(9), if applicable.

“(ii) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the payments required by clause (i), as allocated pursuant to clause (iii)(I), shall be the only payments required for reimbursement of U.S. Customs and Border Protection for customs services provided in connection with the processing of an Inbound EMS item.

“(iii)(I) The payments required by clause (i) shall be allocated as follows:

“(aa) 50 percent of the amount of the payments shall be paid on a quarterly basis by the United States Postal Service to the Commissioner of U.S. Customs and Border Protection in accordance with regulations prescribed by the Secretary of the Treasury to reimburse U.S. Customs and Border Protection for customs services provided in connection with the processing of Inbound EMS items.

“(bb) 50 percent of the amount of the payments shall be retained by the Postal Service to reimburse the Postal Service for services provided in connection with the customs processing of Inbound EMS items.

“(II) Payments received by U.S. Customs and Border Protection under subclause (I)(aa) shall, in accordance with section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), be deposited in the Customs User Fee Account and used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to international mail facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of such services.

“(III) Payments retained by the Postal Service under subclause (I)(bb) shall be used to directly reimburse the Postal Service for the costs incurred in providing services in connection with the customs processing of Inbound EMS items.

“(iv) Beginning in fiscal year 2021, the Secretary, in consultation with the Postmaster General, may adjust, not more frequently than once each fiscal year, the amount described in clause (i)(I) to an amount commensurate with the costs of services provided in connection with the customs processing of Inbound EMS items, consistent with the obligations of the United States under international agreements.”.

(b) **CONFORMING AMENDMENTS.**—Section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is amended—

(1) in paragraph (6), by inserting “(other than an item subject to a fee under subsection (b)(9)(D))” after “customs officer”; and

(2) in paragraph (10)—

(A) in subparagraph (C), in the matter preceding clause (i), by inserting “(other than Inbound EMS items described in subsection (b)(9)(D))” after “release”; and

(B) in the flush at the end, by inserting “or of Inbound EMS items described in subsection (b)(9)(D),” after “(C).”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2020.

**SEC. 3. MANDATORY ADVANCE ELECTRONIC INFORMATION FOR POSTAL SHIPMENTS.**

(a) MANDATORY ADVANCE ELECTRONIC INFORMATION.—

(1) IN GENERAL.—Section 343(a)(3)(K) of the Trade Act of 2002 (Public Law 107–210; 19 U.S.C. 2071 note) is amended to read as follows:

“(K)(i) The Secretary, with the concurrence of the Secretary of State, shall prescribe regulations requiring the United States Postal Service to transmit the information described in paragraphs (1) and (2) to the Commissioner of U.S. Customs and Border Protection for international mail shipments by the Postal Service (including shipments to the Postal Service from foreign postal operators that are transported by private carrier) consistent with the requirements of this subparagraph.

“(ii) In prescribing regulations under clause (i), the Secretary shall impose requirements for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) that are comparable to the requirements for the transmission of such information imposed on similar non-mail shipments of cargo, taking into account the parameters set forth in subparagraphs (A) through (J).

“(iii) The regulations prescribed under clause (i) shall require the transmission of the information described in paragraphs (1) and (2) with respect to a shipment as soon as practicable in relation to the transportation of the shipment, consistent with subparagraph (H).

“(iv) Regulations prescribed under clause (i) shall allow for the requirements for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) to be implemented in phases, as appropriate, by—

“(I) setting incremental targets for increasing the percentage of such shipments for which information is required to be transmitted to the Commissioner; and

“(II) taking into consideration—

“(aa) the risk posed by such shipments;

“(bb) the volume of mail shipped to the United States by or through a particular country; and

“(cc) the capacities of foreign postal operators to provide that information to the Postal Service.

“(v)(I) Notwithstanding clause (iv) and except as provided in subclause (II), the Postal Service shall, not later than December 31, 2018, arrange for the transmission to the Commissioner of the information described in paragraphs (1) and (2) for not less than 70 percent of the aggregate number of mail shipments described in clause (i).

“(II)(aa) The requirements of subclause (I) may be waived for a period of not more than 180 days if, not later than December 31, 2018—

“(AA) the Secretary and the Postmaster General, with the concurrence of the Secretary of State, determine that meeting those requirements is not feasible because of the lack of capacity of foreign postal operators to provide the Postal Service with the information described in paragraphs (1) and (2);

“(BB) the Secretary and the Postmaster General, with the concurrence of the Secretary of State, determine that meeting those requirements is not feasible because of extraordinary reasons other than lack of capacity of foreign postal operators that are outside the control of the Postal Service; or

“(CC) the Secretary of State determines that such a waiver is in the national security interests of the United States.

“(bb) A waiver under item (aa) may be renewed for one additional period of not more than 180 days if a determination described in item (aa) is made for that period.

“(III) If the requirements of subclause (I) are not met, the Comptroller General of the United States shall submit to the appropriate congressional committees, not later than January 31, 2020, a report—

“(aa) assessing the reasons for the failure to meet those requirements; and

“(bb) identifying recommendations to improve the collection by the Postal Service of the information described in paragraphs (1) and (2).

“(vi)(I) Notwithstanding clause (iv) and except as provided in subclause (II), the Postal Service shall, not later than December 31, 2022, arrange for the transmission to the Commissioner of the information described in paragraphs (1) and (2) for not less than 95 percent of the aggregate number of mail shipments described in clause (i).

“(II) The requirements of subclause (I) may be waived for a period of not more than one year if, not later than December 31, 2022—

“(aa) the Secretary and the Postmaster General, with the concurrence of the Secretary of State, determine that meeting those requirements is not feasible because of—

“(AA) the lack of capacity of foreign postal operators to provide the Postal Service with the information described in paragraphs (1) and (2); or

“(BB) extraordinary reasons other than lack of capacity of foreign postal operators that are outside the control of the Postal Service; or

“(bb) the Secretary of State determines that such a waiver is in the national security interests of the United States.

“(vii) Not later than 15 days before making a determination under clause (v) or (vi) that meeting the requirements of that clause is not feasible, the Secretary and the Postmaster General shall submit to the appropriate congressional committees a notification of the determination. The notification shall include—

“(I) in the case of a determination under clause (v)(II)(aa)(AA) or (vi)(II)(aa)(AA)—

“(aa) a list of which foreign postal operators lack the capacity to provide the information described in paragraphs (1) and (2) to the Postal Service;

“(bb) a description of the efforts by the Postal Service made to obtain that information from those operators; and

“(cc) a plan for obtaining that information from those operators; and

“(II) in the case of a determination under clause (v)(II)(aa)(BB) or (vi)(II)(aa)(BB)—

“(aa) a description of the extraordinary reasons outside the control of the Postal Service; and

“(bb) a plan for obtaining the transmission of information described in paragraphs (1) and (2) as required by clause (v) or (vi), as applicable.

“(viii) The Secretary and the Postmaster General may, in consultation with the Secretary of State, as necessary, take all appropriate remedial measures necessary to ensure compliance with regulations prescribed under clause (i) and consistent with the obligations of the United States under international agreements, including refusal of shipments for which the information described in paragraphs (1) and (2) is not transmitted as required under this subparagraph.

“(ix) Nothing in this subparagraph shall be construed to limit the authority of the Secretary to obtain information relating to international mail shipments from private carriers or other appropriate parties.

“(x) In this subparagraph, the term ‘appropriate congressional committees’ means—

“(I) the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(II) the Committee on Ways and Means and the Committee on Oversight and Government Reform of the House of Representatives.”.

(2) JOINT STRATEGIC PLAN ON MANDATORY ADVANCE INFORMATION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Postmaster General shall develop and submit to the appropriate congressional committees a joint strategic plan detailing specific performance measures for achieving—

(A) the transmission of information as required by section 343(a)(3)(K) of the Trade Act of 2002, as amended by paragraph (1); and

(B) the presentation by the Postal Service to U.S. Customs and Border Protection of all mail targeted by U.S. Customs and Border Protection for inspection.

(b) CAPACITY BUILDING.—

(1) IN GENERAL.—Section 343(a) of the Trade Act of 2002 (Public Law 107–210; 19 U.S.C. 2071 note) is amended by adding at the end the following:

“(5) CAPACITY BUILDING.—

“(A) IN GENERAL.—The Secretary, with the concurrence of the Secretary of State, and in coordination with the Postmaster General and the heads of other Federal agencies, as appropriate, may provide technical assistance, equipment, technology, and training to enhance the capacity of foreign postal operators—

“(i) to gather and provide the information required by paragraph (3)(K); and

“(ii) to otherwise gather and provide postal shipment information related to—

“(I) terrorism;

“(II) items the importation or introduction of which into the United States is prohibited or restricted, including controlled substances; and

“(III) such other concerns as the Secretary determines appropriate.

“(B) PROVISION OF EQUIPMENT AND TECHNOLOGY.—With respect to the provision of equipment and technology under subparagraph (A), the Secretary may lease, loan, provide, or otherwise assist in the deployment of such equipment and technology under such terms and conditions as the Secretary may prescribe, including nonreimbursable loans or the transfer of ownership of equipment and technology.”

(2) JOINT STRATEGIC PLAN ON CAPACITY BUILDING.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security and the Postmaster General shall, in consultation with the Secretary of State, jointly develop and submit to the appropriate congressional committees a joint strategic plan—

(A) detailing the extent to which U.S. Customs and Border Protection and the United States Postal Service are engaged in capacity building efforts under section 343(a)(5) of the Trade Act of 2002, as added by paragraph (1);

(B) describing plans for future capacity building efforts; and

(C) assessing how capacity building has increased the ability of U.S. Customs and Border Protection and the Postal Service to advance the goals of this Act and the amendments made by this Act.

(c) REPORT AND CONSULTATIONS BY SECRETARY OF HOMELAND SECURITY AND POSTMASTER GENERAL.—

(1) REPORT.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter until 3 years after the Postmaster General has met the requirement under clause (vi) of subparagraph (K) of section 343(a)(3) of the Trade Act of 2002, as amended by subsection (a)(1), the Secretary of Homeland Security and the Postmaster General shall, in consultation with the Secretary of State, jointly submit to the appropriate congressional committees a report on compliance with that subparagraph that includes the following:

(A) An assessment of the status of the regulations required to be promulgated under that subparagraph.

(B) An update regarding new and existing agreements reached with foreign postal operators for the transmission of the information required by that subparagraph.

(C) A summary of deliberations between the United States Postal Service and foreign postal operators with respect to issues relating to the transmission of that information.

(D) A summary of the progress made in achieving the transmission of that information for the percentage of shipments required by that subparagraph.

(E) An assessment of the quality of that information being received by foreign postal operators, as determined by the Secretary of Homeland Security, and actions taken to improve the quality of that information.

(F) A summary of policies established by the Universal Postal Union that may affect the ability of the Postmaster General to obtain the transmission of that information.

(G) A summary of the use of technology to detect illicit synthetic opioids and other illegal substances in international mail parcels and planned acquisitions and advancements in such technology.

(H) Such other information as the Secretary of Homeland Security and the Postmaster General consider appropriate with respect to obtaining the transmission of information required by that subparagraph.

(2) CONSULTATIONS.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until the Postmaster General has met the requirement under clause (vi) of section 343(a)(3)(K) of the Trade Act of 2002, as amended by subsection (a)(1), to arrange for the transmission of infor-

mation with respect to not less than 95 percent of the aggregate number of mail shipments described in clause (i) of that section, the Secretary of Homeland Security and the Postmaster General shall provide briefings to the appropriate congressional committees on the progress made in achieving the transmission of that information for that percentage of shipments.

(d) **GOVERNMENT ACCOUNTABILITY OFFICE REPORT.**—Not later than December 31, 2020, the Comptroller General of the United States shall submit to the appropriate congressional committees a report—

(1) assessing the progress of the United States Postal Service in achieving the transmission of the information required by subparagraph (K) of section 343(a)(3) of the Trade Act of 2002, as amended by subsection (a)(1), for the percentage of shipments required by that subparagraph;

(2) assessing the quality of the information received from foreign postal operators for targeting purposes;

(3) assessing the specific percentage of targeted mail presented by the Postal Service to U.S. Customs and Border Protection for inspection;

(4) describing the costs of collecting the information required by such subparagraph (K) from foreign postal operators and the costs of implementing the use of that information;

(5) assessing the benefits of receiving that information with respect to international mail shipments;

(6) assessing the feasibility of assessing a customs fee under section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 2, on international mail shipments other than Inbound Express Mail service in a manner consistent with the obligations of the United States under international agreements; and

(7) identifying recommendations, including recommendations for legislation, to improve the compliance of the Postal Service with such subparagraph (K), including an assessment of whether the detection of illicit synthetic opioids in the international mail would be improved by—

(A) requiring the Postal Service to serve as the consignee for international mail shipments containing goods; or

(B) designating a customs broker to act as an importer of record for international mail shipments containing goods.

(e) **TECHNICAL CORRECTION.**—Section 343 of the Trade Act of 2002 (Public Law 107–210; 19 U.S.C. 2071 note) is amended in the section heading by striking “**ADVANCED**” and inserting “**ADVANCE**”.

(f) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Ways and Means and the Committee on Oversight and Government Reform of the House of Representatives.

#### **SEC. 4. INTERNATIONAL POSTAL AGREEMENTS.**

(a) **EXISTING AGREEMENTS.**—Any regulations prescribed under section 343(a)(3)(K) of the Trade Act of 2002, as amended by section 3(a)(1), shall be consistent with the obligations of the United States under international agreements.

(b) **FUTURE AGREEMENTS.**—

(1) **CONSULTATIONS.**—Before entering into, on or after the date of the enactment of this Act, any postal treaty, convention, or other international agreement related to international postal services, or any amendment to such an agreement, that could restrict the ability of the United States to secure the provision of advance electronic information by foreign postal operators, the Secretary of State should consult with the appropriate congressional committees (as defined in section 3(f)).

(2) **EXPEDITED NEGOTIATION OF NEW AGREEMENT.**—To the extent that any new postal treaty, convention, or other international agreement related to international postal services is necessary to secure the provision of advance electronic information by foreign postal operators as required by regulations prescribed under section 343(a)(3)(K) of the Trade Act of 2002, as amended by section 3(a)(1), the Secretary of State should expeditiously conclude such an agreement.

#### **SEC. 5. COST RECOUPMENT.**

(a) **IN GENERAL.**—The United States Postal Service shall, to the extent practicable and otherwise recoverable by law, ensure that all costs associated with complying with this Act and amendments made by this Act are charged directly to foreign shippers or foreign postal operators.

(b) **COSTS NOT CONSIDERED REVENUE.**—The recovery of costs under subsection (a) shall not be deemed revenue for purposes of subchapter I and II of chapter 36 of title 39, United States Code, or regulations prescribed under that chapter.

**SEC. 6. DEVELOPMENT OF TECHNOLOGY TO DETECT ILLICIT NARCOTICS.**

(a) **IN GENERAL.**—The Postmaster General and the Commissioner of U.S. Customs and Border Protection, in coordination with the heads of other agencies as appropriate, shall collaborate to identify and develop technology for the detection of illicit fentanyl, other synthetic opioids, and other narcotics and psychoactive substances entering the United States by mail.

(b) **OUTREACH TO PRIVATE SECTOR.**—The Postmaster General and the Commissioner shall conduct outreach to private sector entities to gather information regarding the current state of technology to identify areas for innovation relating to the detection of illicit fentanyl, other synthetic opioids, and other narcotics and psychoactive substances entering the United States.

**SEC. 7. EFFECTIVE DATE; REGULATIONS.**

(a) **EFFECTIVE DATE.**—This Act and the amendments made by this Act (other than the amendments made by section 2) shall take effect on the date of the enactment of this Act.

(b) **REGULATIONS.**—Not later than one year after the date of the enactment of this Act, such regulations as are necessary to carry out this Act and the amendments made by this Act shall be prescribed.

## **II. SUMMARY AND BACKGROUND**

### **A. PURPOSE AND SUMMARY**

The Securing the International Mail Against Opioids Act of 2018 prevents dangerous and illegal contraband such as synthetic opioids from entering the United States through the international mail. This legislation amends the Trade Act of 2002 and mandates that the U.S. Postal Service (USPS) obtain advance electronic data (AED) on international mail shipments, allowing U.S. Customs and Border Protection (CBP) to target opioid shipments and other illegal imports and prevent their entry into the United States.

### **B. BACKGROUND AND NEED FOR LEGISLATION**

The Trade Act of 2002 directed the Secretary of the Treasury—now delegated to the Secretary of Homeland Security—to promulgate regulations requiring private carriers to electronically transmit information to CBP prior to the arrival of cargo into the United States or its departure from the United States. The advance information required includes information that CBP uses to ensure cargo safety and security, such as the name and address of the shipper and recipient, as well as the package contents. Having this advance information enables CBP to target high-risk shipments for inspection and seizure. While the Trade Act required advance data for all shipments by private carriers, including express delivery carriers, it did not require advance data for international mail shipments through USPS. As a result, international mail shipments arrive in the United States with no information, making it difficult for CBP to target high-risk shipments, including those containing synthetic opioids. This lack of information has created a significant vulnerability that allows criminals to ship synthetic opioids into the United States with ease. This problem has given rise to the need for legislative solutions to improve the detection of synthetic opioids in the international mail.

## C. LEGISLATIVE HISTORY

*Background*

H.R. 5788, the Securing the International Mail Against Opioids Act of 2018, which provides for the processing by CBP of certain international mail shipments and requires the provision of advance electronic information on international mail shipments of mail, was introduced on May 15, 2018 by Representative Mike Bishop (R-MI) and Trade Subcommittee Ranking Member Bill Pascrell, Jr. (D-NJ) and was referred to the Committee on Ways and Means and sequentially to the Committee on Oversight and Government Reform and the Committee on Homeland Security.

*Committee action*

The Committee on Ways and Means marked up H.R. 5788 on May 16, 2018, and ordered the bill, as amended, favorably reported (with a quorum being present).

**III. EXPLANATION OF THE BILL**

## SECTION 1: SHORT TITLE

*Present Law*

No provision.

*Explanation of provision*

This Act may be cited as “Securing the International Mail Against Opioids Act of 2018.”

*Reason for change*

The Committee believes that the short title accurately reflects the policy actions included in the legislation.

*Effective date*

The provision is effective on the date of the enactment of this Act.

## SECTION 2: CUSTOMS FEES

*Present Law*

No provision.

*Explanation of Provision*

Section 2(a) amends section 13031(b)(9) of the Consolidated Omnibus Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) to establish a new \$1.00 fee on Inbound Express Mail Service (EMS) items, to be split between CBP and USPS, for the provision of customs processing of Inbound EMS items. Section 2(a) also authorizes the fee to be adjusted, beginning in fiscal year 2021, to an amount commensurate with the costs of services provided.

Section 2(b) makes conforming amendments within section 13031(b)(9) of the Consolidated Omnibus Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) to account for the new fee established by Section 2(a).

Section 2(c) provides an effective date of January 1, 2020, for the amendments made by this section.

*Reason for Change*

The Committee believes that it is appropriate to establish a customs processing fee for Inbound EMS items to align these products with the \$1.00 fee charged on imported letters, documents, shipments, and other merchandise arriving to the United States through an express consignment carrier. In addition, the \$1.00 fee will allow CBP and USPS to recover costs associated with the customs processing of Inbound EMS items arriving through the international mail. The Committee understands that USPS must provide adequate notice of the new fee to foreign postal operators and believes that an effective date of January 1, 2020, provides ample time for USPS to notify the appropriate parties, consistent with its obligations.

*Effective Date*

The provision is effective on January 1, 2020.

SECTION 3: MANDATORY ADVANCE ELECTRONIC INFORMATION FOR  
POSTAL SHIPMENTS

*Present Law*

Section 343(a) of the Trade Act of 2002 directs the Secretary of the Treasury to promulgate regulations requiring private carriers to electronically transmit information to CBP prior to the arrival of cargo into the United States or its departure from the United States. The information required includes “information on cargo as the Secretary determines to be reasonably necessary to ensure cargo safety and security pursuant to those laws enforced by [CBP].” Section 343(a) requires advance data for all private carriers, but it gives CBP, in consultation with the Postmaster General, the discretion to “determine whether it is appropriate to impose the same or similar requirements on shipments by the United States Postal Service.” This discretion has not been exercised in the implementing regulations.

*Explanation of provision*

Section 3(a) amends section 343(a)(3)(K) of the Trade Act of 2002 to require USPS to transmit AED to CBP on merchandise arriving to the United States through the international mail and mandates that the agencies meet specific and detailed requirements regarding the transmission of AED—including that USPS transmit AED on at least 70 percent of international mail shipments by December 31, 2018, and on at least 95 percent by December 31, 2022. If these requirements are not met, the Government Accountability Office (GAO) is required to provide the appropriate congressional committees with a report assessing the reasons for the failure to meet these requirements and identifying recommendations to improve the collection of AED by USPS. Section 3(a) authorizes the Secretary of Homeland Security and the Postmaster General, with the concurrence of the Secretary of State, to waive these requirements for a limited period of time only (1) where the lack of capacity by foreign postal operators to provide AED to USPS causes it to miss the thresholds; (2) due to “extraordinary reasons” outside of USPS’s control; or (3) where the Secretary of State determines that such a waiver is in the national security interests of the United States.

In exercising a waiver under this section, the Secretary and Postmaster General must provide at least 15 days advance notice to the appropriate committees regarding the determination and plans to obtain the transmission of AED required by the Act.

Section 3(a) requires USPS to transmit AED to CBP as soon as practicable, in keeping with CBP's Air Cargo Advance Screening program and comparable to the requirements placed on private carriers. It also authorizes the Secretary and Postmaster General to take appropriate remedial measures necessary to ensure compliance with the AED requirements of this Act consistent with international obligations, up to and including refusal of shipments for which the information is not furnished as required.

Section 3(a) further requires the Secretary and the Postmaster General to develop and submit to the appropriate congressional committees, not later than 60 days after enactment of the Act, a joint strategic plan detailing specific performance measures for achieving transmission of AED and for the percentage of targeted mail presented by USPS to CBP for inspection.

Section 3(b) authorizes the Secretary, with the concurrence of the Secretary of State, and in coordination with the Postmaster General and the heads of other Federal agencies, as appropriate, to undertake capacity building to enhance the capacity of foreign postal operators to gather and provide AED to the United States. The Secretary and the Postmaster General, in consultation with the Secretary of State, are required to jointly develop and submit to the appropriate congressional committees a joint strategic plan detailing the extent to which the agencies are engaged in capacity building, describing future plans for capacity building, and assessing how capacity building increases the ability of CBP and USPS to obtain AED.

Section 3(c) requires the Secretary and the Postmaster General, in consultation with the Secretary of State, to jointly submit to the appropriate congressional committees not later than 180 days after the date of the enactment of this Act and annually thereafter a report on compliance with this Act's requirements, including the status of regulations, progress made in achieving the transmission of AED, agreements reached with foreign postal operators for AED transmission, an assessment of AED quality and actions to improve it, and a summary of international postal policies that may affect the ability of USPS to obtain AED. This provision also requires the Secretary and the Postmaster General to provide briefings to the appropriate congressional committees every 180 days on the progress made in achieving the transmission of AED required by the Act.

Section 3(d) requires the GAO to: (1) report on the agencies' progress in achieving the legislative mandates, including an assessment of the quality of AED transmitted to CBP and the ability of USPS to present targeted shipments to CBP for inspection; and (2) make recommendations to improve USPS's compliance with the new requirements, including whether requiring USPS to serve as a consignee for international mail shipments and to designate a customs broker to act as the importer of record would improve the detection of synthetic opioids in the international mail.

Section 3(e) makes a technical correction to Section 343 of the Trade Act of 2002 in the section heading by striking “Advanced” and inserting “Advance.”

Section 3(f) defines the term “appropriate congressional committees” as the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Ways and Means and the Committee on Oversight and Government Reform of the House of Representatives.

*Reason for change*

The Committee believes that CBP and USPS must considerably improve the detection of synthetic opioids in the international mail and that requiring the transmission of AED—in keeping with what is required of private carriers—is essential to achieving this goal. The Committee is aware, however, that unlike private carriers, which operate closed, fully integrated networks in which they can establish the prices and policies they place on foreign shippers, USPS must rely on foreign postal operators to provide it with information. For this reason, the Committee believes it is appropriate to provide a limited phase-in period to allow USPS time to reach agreements with foreign postal operators for the provision of AED. In addition, the Committee believes it is appropriate to provide specific and limited waivers from the requirement for transmitting data on at least 70 percent of international mail shipments by December 31, 2018, and on at least 95 percent by December 31, 2022, given USPS’s dependence on foreign postal operators. The Committee does not intend this waiver authority to be used for countries that have the ability to provide AED and simply refuse to do so for internal policy reasons. For example, the Committee does not intend the waiver to be available for China or member countries of the European Union. In addition, the Committee believes it is appropriate to require the agencies to provide advance notice that it intends to exercise a waiver so that the Committee can exercise its oversight functions and ensure that the requirements of this Act are met.

The Committee believes it is important to empower the agencies to secure AED from foreign postal operators and to provide them with the tools to enforce this requirement. For this reason, the legislation authorizes the agencies to take appropriate remedial measures up to and including refusal of international mail shipments for which AED is required but not transmitted.

The Committee believes that it is appropriate to include robust oversight mechanisms to ensure that the agencies are held accountable for the mandates required in this Act. The Committee also believes it is important for the GAO to provide a report on the agencies’ progress in achieving the legislative mandates and make recommendations to improve USPS’s compliance with the new requirements. The Committee is aware that some stakeholders believe additional measures required by the private sector should be imposed on USPS. The Committee believes it would be valuable for the GAO to analyze these measures, including requiring USPS to serve as a consignee for international mail shipments, to determine whether such a requirement would be feasible and whether it would improve the detection of synthetic opioids in the international mail. This analysis will assist the Committee in deter-

mining whether additional action is needed to effectively secure the international mail.

*Effective date*

The provision is effective on the date of the enactment of this Act.

SECTION 4: INTERNATIONAL POSTAL AGREEMENTS

*Present Law*

No provision.

*Explanation of provision*

Section 4(a) requires that any regulations prescribed under Section 343(a)(3)(K) of the Trade Act, as amended by Section 3(a)(1), shall be consistent with the obligations of the United States under international agreements.

Section 4(b) directs the Secretary of State to consult with the appropriate congressional committees before entering into any postal treaty, convention, or other international agreement related to international postal services that could restrict the ability of the United States to require and obtain AED from foreign postal operators. This provision also directs the Secretary of State to expeditiously conclude any international agreement related to international postal services that is necessary to secure the provision of AED as required by this Act.

*Reason for change*

The Committee believes it is important that the United States uphold its obligations under international agreements, including those under the Universal Postal Union (UPU). However, the Committee is aware that the UPU has been grappling with the question of AED for years and that progress has been unacceptably slow. The Committee is concerned that continued delay in the implementation of AED requirements for international mail shipments is a significant security risk that must be addressed. The Committee believes that the State Department should seek to expeditiously conclude any international agreements related to international postal services that are necessary to advance the goals of this Act by improving the United States' ability to secure the provision of AED. The Committee also believes it is important for the Secretary of State to consult with the appropriate congressional committees on any agreement that could restrict the ability of the United States to require the transmission of AED.

*Effective date*

The provision is effective on the date of the enactment of this Act.

SECTION 5: COST RECOUPMENT

*Present Law*

No provision.

*Explanation of provision*

Section 5(a) requires USPS, to the extent practicable and otherwise recoverable by law, to ensure that all costs associated with complying with this Act are charged directly to foreign shippers or foreign postal operators.

Section 5(b) clarifies that any recovery of costs under this section shall not be considered revenue for purposes of subchapter I and II of chapter 36 of title 39, United States Code.

*Reason for change*

The Committee recognizes that USPS may incur additional costs associated with complying with this Act beyond what it will recover through the new fee established under Section 2. The Committee believes it is appropriate for the Postal Service to use any and all existing authorities to recover remaining costs associated with complying with this Act from foreign shippers and foreign postal operators.

*Effective date*

The provision is effective on the date of the enactment of this Act.

SECTION 6: DEVELOPMENT OF TECHNOLOGY TO DETECT ILLICIT  
NARCOTICS

*Present Law*

No provision.

*Explanation of provision*

Section 6(a) directs the Commissioner of CBP and the Postmaster General, in coordination with the heads of other Federal agencies as appropriate, to collaborate to identify and develop technology that will improve the detection of synthetic opioids, as well as other narcotics and psychoactive substances, entering the United States by mail.

Section 6(b) requires the Commissioner and Postmaster General to conduct outreach to private sector entities regarding existing technology and areas for innovation related to the detection of synthetic opioids, as well as other narcotics and psychoactive substances, entering the United States.

*Reason for change*

The Committee believes that CBP and USPS need every tool available to detect and identify synthetic opioids and other harmful substances that may be contained in international mail shipments and pose a threat to the American people. The Committee supports and encourages the development of technology that will improve the detection of these substances and will reduce the risk for CBP and USPS employees who could come into direct contact with these substances.

*Effective date*

The provision is effective on the date of the enactment of this Act.

## SECTION 7: EFFECTIVE DATE; REGULATIONS

*Present Law*

No provision.

*Explanation of provision*

Section 7(a) provides that the changes made by this Act, other than amendments made by Section 2 (relating to fees), shall take effect on the date of the enactment of this Act.

Section 7(b) requires the agencies to promulgate regulations necessary to carry out this Act not later than one year after the date of enactment of this Act.

*Reason for change*

Given the severity of the opioid crisis and the compelling need to address the vulnerabilities in the international mail system, the Committee believes it is appropriate to require the provisions of this Act—other than Section 2—to be effective immediately upon enactment. The Committee also believes that one year from the date of enactment of the Act is the appropriate amount of time for the agencies to develop and promulgate any regulations necessary to carry out this Act.

*Effective date*

The provision is effective on the date of the enactment of this Act.

**III. VOTES OF THE COMMITTEE**

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 5788, the *Securing the International Mail Against Opioids Act*, on May 15, 2018.

The Chairman's amendment in the nature of a substitute was adopted by a voice vote (with a quorum being present).

The bill, H.R. 5788, was ordered favorably reported as amended by voice vote (with a quorum being present).

**IV. BUDGET EFFECTS OF THE BILL****A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS**

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 5788, as reported. The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

**B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY**

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET  
OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 6, 2018.*

Hon. KEVIN BRADY,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the opioid-related legislation ordered to be reported on May 16, 2018.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Tom Bradley.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*Opioid Legislation*

Summary: On May 16, 2018, the House Committee on Ways and Means ordered seven bills to be reported related to the nation's response to the opioid epidemic. Generally, the bills would:

- Expand Medicare coverage of treatment for opioid use disorder;
- Give Medicare providers and health plans additional tools to curtail inappropriate prescribing and use of opioids;
- Require the completion of studies and reports related to opioid use and misuse in Medicare; and
- Require the United States Postal Service and Customs and Border Protection (CBP) to reduce illegal shipment of opioids across international borders.

Because the bills are related, CBO is publishing a single comprehensive document that includes estimates for each piece of legislation.

CBO estimates that enacting four of the bills would affect direct spending; therefore, pay-as-you-go procedures apply for those bills. None of the bills would affect revenues.

CBO estimates that although enacting one bill of the seven included in this document (H.R. 5776) would increase net direct spending and on-budget deficits over the four consecutive 10-year periods beginning in 2029, those effects would not exceed the threshold established by the Congress for long-term costs. CBO estimates that none of the remaining bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

None of the bills contain intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimates in this document do not include the effects of interactions among the bills.

If all seven bills were combined and enacted as one piece of legislation, the budgetary effects would be different from the sum of the estimates in this document, although CBO expects that those differences would be small. The effects of this legislation fall within functions 550 (health), 570 (Medicare), and 750 (administration of justice).

Basis of estimate: For this estimate, CBO assumes that all of the legislation will be enacted late in 2018 and that authorized and estimated amounts will be appropriated each year. Outlays for discretionary programs are estimated based on historical spending patterns for similar programs.

*Uncertainty*

CBO aims to produce estimates that generally reflect the middle of a range of the most likely budgetary outcomes that would result if the legislation was enacted. Because data on the utilization of mental health and substance abuse treatment under Medicaid and Medicare is scarce, CBO cannot precisely predict how patients or providers would respond to some policy changes or what budgetary effects would result. In addition, several of the bills would give the Department of Health and Human Services (HHS) considerable latitude in designing and implementing policies. Budgetary effects could differ from those provided in CBO’s analyses depending on those decisions.

*Direct Spending*

Table 1 lists the four bills included in this estimate that would affect direct spending.

*H.R. 5676, the Stop Excessive Narcotics in our Retirement Communities Protection Act of 2018*, would allow prescription drug plans to suspend payments to pharmacies while fraud investigations are pending. CBO expects that enacting the legislation would reduce payments by those plans to pharmacies and result in lower premiums for benefits under Medicare’s Part D. CBO estimates that the reduction in premiums would lower federal spending for Part D by \$9 million over the 2019–2028 period.

TABLE 1. ESTIMATED CHANGES IN MANDATORY SPENDING

	By fiscal year, in millions of dollars—													
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019–2023	2019–2028	
INCREASES OR DECREASES (–) IN DIRECT SPENDING														
H.R. 5676, Stop Excessive Narcotics in our Retirement Communities Protection Act of 2018														
Budget Authority ..	0	0	–1	–1	–1	–1	–1	–1	–1	–1	–1	–4	–9	
Outlays .....	0	0	–1	–1	–1	–1	–1	–1	–1	–1	–1	–4	–9	
H.R. 5773, Preventing Addiction for Susceptible Senior Act of 2018 <sup>a</sup>														
Budget Authority ..	0	0	0	–6	–7	–7	–7	–8	–9	–9	–1	–20	–64	
Outlays .....	0	0	0	–6	–7	–7	–7	–8	–9	–9	–1	–20	–64	

TABLE 1. ESTIMATED CHANGES IN MANDATORY SPENDING—Continued

	By fiscal year, in millions of dollars—												
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019–2023	2019–2028
H.R. 5676, the Medicare and Opioid Safe Treatment Act of 2018 <sup>a</sup>													
Budget Authority ..	0	8	0	20	20	25	30	30	35	35	40	73	243
Outlays .....	0	2	4	22	20	25	30	30	35	35	40	73	243
H.R. 5788, Securing the International Mail Against Opioids Act of 2018 <sup>a</sup>													
Budget Authority ..	0	0	*	*	*	*	*	*	*	*	*	*	*
Outlays .....	0	0	*	*	*	*	*	*	*	*	*	*	*

Annual counts may not sum to totals because of rounding. \* = between -\$500,000 and \$500,000  
<sup>a</sup>This bill also would affect spending subject to appropriation.

*H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018*, would require Part D prescription drug plans to provide drug management programs for Medicare beneficiaries who are at risk for prescription drug abuse. (Under current law, Part D plans permitted but not required to establish such programs as of 2019.) Based on an analysis of the number of plans currently providing those programs, CBO estimates that enacting H.R. 5773 would lower federal spending by \$64 million over the 2019–2028 period by reducing the number of prescriptions filled and Medicare’s payments for controlled substances.

Two provisions of H.R. 5773 would have no significant budgetary effect; they are described later in this document.

*H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018*, would appropriate \$8 million in 2019, which would be available until expended, for Federally Qualified Health Centers and Rural Health Clinics to support training in the treatment of opioid use disorder. CBO expects that \$8 million would be spent between 2019 and 2021.

H.R. 5776 also would expand the availability of medication-assisted treatment (MAT) for Medicare beneficiaries with opioid use disorder. The bill would allow treatment programs certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) to become Medicare-participating providers.<sup>1</sup> H.R. 5776 also would direct the Secretary of HHS to create a new schedule of bundled payments for MAT through certified programs and grant the Secretary considerable discretion for defining bundles and establishing payment rates.

CBO projects that, beginning in 2021, about 3,000 Medicare beneficiaries who would not be treated for opioid abuse under current law would newly enroll each year in treatment offered by SAMHSA-certified programs and that the annual cost per participant would range from about \$6,000 to about \$10,000, depending largely on the medications dispensed and the period for which beneficiaries adhered to the protocol. CBO’s projection of the num-

<sup>1</sup>MAT combines behavioral therapy and pharmaceutical treatment for substance use disorders. Under current law, methadone (an opioid used to treat and manage dependence on other drugs, such as heroin) can be dispensed only by SAMHSA-certified treatment programs, which do not participate in Medicare. Other drugs used in MAT, including buprenorphine and naltrexone, can be dispensed more widely.

ber of beneficiaries who would receive treatment takes into consideration the number of beneficiaries estimated to have opioid-use disorder, the number already receiving some form of treatment, and the availability of providers to treat those who newly enroll in MAT. To develop a per capita treatment cost, CBO analyzed rates for MAT paid by other payers, as well as Medicare spending for health care services typically used by people receiving MAT. CBO estimates that the new MAT benefit would increase direct spending by \$235 million over the 2019–2028 period.

CBO estimates that enacting H.R. 5776 would increase net Medicare spending by \$243 million over the 2019–2028 period. (If enacted, H.R. 5776 would also affect spending subject to appropriation; CBO has not completed an estimate of that amount.)

*H.R. 5788, the Securing the International Mail Against Opioids Act of 2018*, would establish a new fee for certain items mailed to the United States from overseas, beginning January 1, 2020. Initially, the fee for most such items would be one dollar, but the amount could be adjusted annually thereafter. Using information provided by CBP, CBO estimates that about \$100 million in new fees would be collected over the 2020–2028 period. The collections would be divided equally between CBP and the Postal Service and spent by those agencies on activities related to the processing of inbound mail. CBO estimates that the net effect on federal spending in each year would be insignificant. (If enacted, H.R. 5788 would also affect spending subject to appropriation; those effects are described below.)

#### *Spending Subject to Appropriation*

For this document, CBO has grouped bills with spending that would be subject to appropriation into three general categories:

- Bills with provisions that would have no budgetary effect;
- Bills with provisions for which CBO has estimated an authorization of appropriations (see Table 2); and
- Bills with provisions that would affect spending subject to appropriation for which CBO has not yet completed an estimate.

**No Budgetary Effect.** CBO estimates that three of the bills have provisions that would not significantly affect direct spending, revenues, or spending subject to appropriation.

*H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018*, would require care professionals to submit prior authorization requests electronically, starting on January 1, 2021, for drugs covered under Medicare Part D. Taking into account that prescribers already use electronic methods to submit such requests, CBO estimates acting that Section 3 of H.R. 5773 would not significantly affect direct spending for Part D.

Section 5 of that bill would expand medication therapy management programs under Medicare Part D to include beneficiaries who are at risk for prescription drug abuse. Because relatively few beneficiaries would be affected by this provision, CBO estimates that its enactment would not significantly affect direct spending for Part D.

Section 6 of that bill would require the Secretary of HHS on an annual basis to identify prescribers of opioids and furnish them with information about proper prescribing methods. Because HHS

already has the capacity to meet those requirements, CBO estimates that enacting that provision would not impose additional administrative costs on the agency.

*H.R. 5775, the Providing Reliable Options for Patients and Educational Resources Act of 2018*, would require prescription drug plans that provide coverage under Medicare Part D to furnish information to beneficiaries about the risks of opioid use and the availability of alternative treatments for pain. The bill also would require Medicare Advantage plans and prescription drug plans to provide information regarding safe disposal of controlled substances in home health risk assessments and medication therapy management programs, respectively. In CBO's estimation, neither proposal would have a budgetary effect because those activities would not impose significant administrative costs on plans or federal agencies.

In addition, H.R. 5775 would restrict the use of certain pain-related questions on the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey, which is administered by the Centers for Medicare & Medicaid Services (CMS). The survey is one measure used in CMS's Hospital Value-Based Purchasing (VBP) Program, which adjusts payments to acute care hospitals on the basis of the quality of care they provide to Medicare beneficiaries. Because the VBP program is funded by reducing base payments to all hospitals, CBO estimates that changing the HCAHPS survey would not affect the total amount paid by Medicare.

*H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018*, in section 3, would require CMS, beginning on January 1, 2020, to review and possibly modify payments made through Medicare's Hospital Outpatient Prospective Payment System for certain opioid and nonopioid pain management treatments and technologies. CMS could revise payments if the Secretary of HHS determined that there was a financial incentive to use opioids in place of nonopioid medications. The budget neutrality requirement under current law would apply to such revisions, and the rest of the payment rates within the system would be subject to offsetting adjustments. Because the changes would be made in a budget-neutral manner, CBO estimates that this provision would have no budgetary effect.

Section 6 of H.R. 5776 would explicitly authorize the Center for Medicare and Medicaid Innovation (CMMI) to test approaches for expanding beneficiaries' awareness of psychological services and to help those beneficiaries curtail use of hospital-based mental or behavioral health services. Because CMMI already has that authority, CBO estimates that enacting the legislation would not affect federal spending.

Estimated Authorizations. Table 2 shows CBO's estimates of the authorization of appropriations for provisions in four bills. For those estimates, CBO assumes that appropriated funds would be available to implement those provisions.

*H.R. 5723, the Expanding Oversight of Opioid Prescribing and Payment Act of 2018*, would require the Medicare Payment Advisory Commission to report to the Congress on payments for pain treatment, incentives for prescribing opioids in inpatient and outpatient settings, and documented tracking of opioid use from Medi-

care claims data. CBO estimates that producing such a report would cost less than \$500,000 over the 2019–2023 period.

TABLE 2. ESTIMATED SPENDING SUBJECT TO APPROPRIATION FOR BILLS WITH ESTIMATED AUTHORIZATIONS

	By fiscal year, in millions of dollars—						
	2018	2019	2020	2021	2022	2023	2019–2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
H.R. 5723, Expanding Oversight of Opioid Prescribing and Payment Act of 2018							
Estimated Authorization Level .....	0	*	0	0	0	0	*
Estimated Outlays .....	0	*	0	0	0	0	*
H.R. 5773, Preventing Addiction for Susceptible Seniors Act of 2018 <sup>a</sup>							
Estimated Authorization Level .....	0	2	2	2	2	2	9
Estimated Outlays .....	0	2	2	2	2	2	9
H.R. 5776, Medicare and Opioid Safe Treatment Act of 2018 <sup>a</sup>							
Estimated Authorization Level .....	0	1	0	0	0	0	1
Estimated Outlays .....	0	1	0	0	0	0	1
H.R. 5788, Securing the International Mail Against Opioids Act of 2018 <sup>a</sup>							
Estimated Authorization Level .....	0	100	0	0	0	0	100
Estimated Outlays .....	0	40	40	20	0	0	100

Annual amounts may not sum to totals because of rounding.

\* = between zero and \$500,000

<sup>a</sup>This bill also would affect mandatory spending.

*H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018*, would require the Secretary of HHS to establish a secure Internet portal to allow HHS, Medicare Advantage plans, and Medicare Part D plans to exchange information about fraud, waste, and abuse among providers and suppliers no later than two years after enactment. H.R. 5773 also would require organizations with Medicare Advantage contracts to submit information on investigations related to providers suspected of prescribing large volumes of opioids through a process established by the Secretary no later than January 2021. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5773 would cost approximately \$9 million over the 2019–2023 period.

*H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018*, would direct the Secretary of HHS to report to the Congress on the availability of supplemental benefits to pay for treatment or prevention of substance abuse among enrollees in Medicare Advantage plans. The Secretary also would report on coverage of and payment for pain treatment and substance use disorders under Medicare. CBO estimates that producing those reports would cost \$1 million over five years.

*H.R. 788, the Securing the International Mail Against Opioids Act of 2018*, would direct the Postal Service, CBP, and other federal agencies to collaborate to develop technology to detect opioids and other drugs that enter the United States in the mail. Using information provided by CBP, CBO estimates that it would cost roughly \$100 million over the 2019–2021 period to deploy drug detection systems at international mail facilities.

Other Authorizations. CBO has determined that provisions in two bills—H.R. 5774, Combating Opioid Abuse for Care in Hospitals Act of 2018; and H.R. 5776, the Medicare and Safe Opioid

Treatment Act of 2018—would increase authorization levels, but has not completed estimates of amounts. Any spending that would result from those authorizations would be subject to future appropriation action.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Four of the bills discussed in this document contain direct spending and are subject to pay-as-you-go procedures. Details about the amount of direct spending in those bills can be found in Table 1.

Increase in long-term direct spending and deficits: CBO estimates that although enacting H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018, would increase net direct spending and on-budget deficits over the four consecutive 10-year periods beginning in 2029, those effects would not exceed the threshold established by the Congress for long-term costs (\$2.5 billion for net direct spending and \$5 billion for on-budget deficits). CBO estimates that none of the remaining bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: None of the bills contains intergovernmental or private-sector mandates as defined in UMRA.

Previous CBO estimate: On June 6, 2018, CBO issued an estimate for 59 opioid-related bills ordered reported by the House Committee on Energy and Commerce on May 9 and May 17, 2018. Several of those bills contain provisions that are identical or similar to those in the legislation ordered reported by the Committee on Ways and Means, and for those provisions, CBO's estimates are the same.

In particular, several sections in H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018, contain provisions that are identical or similar to those in five bills listed in the other estimate:

- Section 2, which would require prescription drug plans to implement drug management programs, is identical to a provision in H.R. 5675.
- Section 3, regarding electronic prior authorization for prescriptions under Medicare's Part D, is similar to a provision in H.R. 4841.
- Section 4, which would mandate the creation of a new Internet portal to allow various stakeholders to exchange information, is identical to a provision in H.R. 5715.
- Section 5, which would expand medication therapy management, is the same as a provision in H.R. 5684.
- Section 6, regarding prescriber notification, is identical to H.R. 5716.

In addition, in this estimate, a provision related to Medicare beneficiary education in section 2 of H.R. 5775, the Providing Reliable Options for Patients and Educational Resources Act of 2018, is the same as a provision in H.R. 5686, the Medicare Clear Health Options in Care for Enrollees Act of 2018, in CBO's estimate for the Committee on Energy and Commerce.

Estimate prepared by: Federal Costs Medicare: Philippa Haven, Lori Housman, Jamease Kowalczyk, Lara Robillard, Sarah Sajewski, Colin Yee, and Rebecca Yip; U.S. Postal Service and Cus-

toms and Border Protection: Mark Grabowicz; Mandates: Andrew Laughlin; Fact Checking: Zachary Byrum and Kate Kelly.

Estimate reviewed by: Tom Bradley, Chief, Health Systems and Medicare Cost Estimates Unit; Kim P. Cawley, Chief, Natural Resources Cost Estimates Unit; Susan Willie, Chief, Mandates Unit; Leo Lex, Deputy Assistant Director for Budget Analysis; Theresa A. Gullo, Assistant Director for Budget Analysis.

## **V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

### **B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES**

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

### **C. INFORMATION RELATING TO UNFUNDED MANDATES**

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

### **D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS**

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

### **E. DUPLICATION OF FEDERAL PROGRAMS**

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

### **F. DISCLOSURE OF DIRECTED RULE MAKINGS**

In compliance with Sec. 3(i) of H. Res. 5 (115th Congress), the following statement is made concerning directed rule makings: The

Committee advises that the bill requires no directed rulemakings within the meaning of such section.

## **VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

### **B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED**

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### **CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

### **SECTION 13031 OF THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985**

#### **SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.**

(a) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect the following fees (subject to adjustment under subsection (1)) for the provision of customs services in connection with the following:

(1) For the arrival of a commercial vessel of 100 net tons or more, \$397.

(2) For the arrival of a commercial truck, \$5.

(3) For the arrival of each railroad car carrying passengers or commercial freight, \$7.50.

(4) For all arrivals made during a calendar year by a private vessel or private aircraft, \$25.

(5)(A) Subject to subparagraph (B), for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)(i) of this section), \$5.

(B) For the arrival of each passenger aboard a commercial vessel from a place referred to in subsection (b)(1)(A)(i) of this section, \$1.75.

(6) For each item of dutiable mail for which a document is prepared by a customs officer (*other than an item subject to a fee under subsection (b)(9)(D)*), \$5.

(7) For each customs broker permit held by an individual, partnership, association, or corporate customs broker, \$125 per year.

(8) For the arrival of a barge or other bulk carrier from Canada or Mexico, \$100.

(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount

equal to 0.21 percent ad valorem, unless adjusted under subparagraph (B).

(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) to an ad valorem rate (but not to a rate of more than 0.21 percent nor less than 0.15 percent) and the amounts specified in subsection (b)(8)(A)(i) (but not to more than \$485 nor less than \$21) to rates and amounts which would, if charged, offset the salaries and expenses that will likely be incurred by the Customs Service in the processing of such entries and releases during the fiscal year in which such costs are incurred.

(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under subsection (f) with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury—

(I) not later than 45 days after the date of the enactment of the Act providing full-year appropriations for the Customs Service for that fiscal year, publishes in the Federal Register a notice of intent to adjust the fee under this paragraph and the amount of such adjustment;

(II) provides a period of not less than 30 days following publication of the notice described in subclause (I) for public comment and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the proposed adjustment and the methodology used to determine such adjustment;

(III) upon the expiration of the period provided under subclause (II), notifies such committees in writing regarding the final determination to adjust the fee, the amount of such adjustment, and the methodology used to determine such adjustment; and

(IV) upon the expiration of the 15-day period following the written notification described in subclause (III), submits for publication in the Federal Register notice of the final determination regarding the adjustment of the fee.

(iv) The 15-day period referred to in clause (iii)(IV) shall be computed by excluding—

(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

(v) An adjustment made under this subparagraph shall become effective with respect to formal entries and releases made on or after the 15th calendar day after the date of publication of the notice described in clause (iii)(IV) and shall remain in effect until adjusted under this subparagraph.

(C) Any fee charged under this paragraph, whether or not adjusted under subparagraph (B), is subject to the limitations in subsection (b)(8)(A).

(10) For the processing of merchandise that is informally entered or released, other than at—

(A) a centralized hub facility,

(B) an express consignment carrier facility, or

(C) a small airport or other facility to which section 236 of the Trade and Tariff Act of 1984 applies, if more than 25,000 informal entries were cleared through such airport or facility during the fiscal year preceding such entry or release (*other than Inbound EMS items described in subsection (b)(9)(D)*),

a fee of—

(i) \$2 if the entry or release is automated and not prepared by customs personnel;

(ii) \$6 if the entry or release is manual and not prepared by customs personnel; or

(iii) \$9 if the entry or release, whether automated or manual, is prepared by customs personnel.

For provisions relating to the informal entry or release of merchandise at facilities referred to in subparagraphs (A), (B), and (C), or of *Inbound EMS items described in subsection (b)(9)(D)*, see subsection (b)(9).

(b) LIMITATIONS ON FEES.—(1)(A) Except as provided in subsection (a)(5)(B) of this section, no fee may be charged under subsection (a) of this section for customs services provided in connection with—

(i) the arrival of any passenger whose journey—

(I) originated in a territory or possession of the United States; or

(II) originated in the United States and was limited to territories and possessions of the United States;

(ii) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates;

(iii) the arrival of a ferry, except for a ferry whose operations begin on or after August 1, 1999, and that operates south of 27 degrees latitude and east of 89 degrees longitude; or

(iv) the arrival of any passenger on board a commercial vessel traveling only between ports which are within the customs territory of the United States.

(B) The exemption provided for in subparagraph (A) shall not apply in the case of the arrival of any passenger on board a commercial vessel whose journey originates and terminates at the same place in the United States if there are no intervening stops.

(C) The exemption provided for in subparagraph (A)(i) shall not apply to fiscal years 1994, 1995, 1996, and 1997.

(2) No fee may be charged under subsection (a)(2) for the arrival of a commercial truck during any calendar year after a total of \$100 in fees (subject to adjustment under subsection (1)) has been paid to the Secretary of the Treasury for the provision of customs

services for all arrivals of such commercial truck during such calendar year.

(3) No fee may be charged under subsection (a)(3) for the arrival of a railroad car whether passenger or freight during any calendar year after a total of \$100 in fees (subject to adjustment under subsection (1)) has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such passenger or freight rail car during such calendar year.

(4)(A) No fee may be charged under subsection (a)(5) with respect to the arrival of any passenger—

(i) who is in transit to a destination outside the customs territory of the United States, and

(ii) for whom customs inspectional services are not provided.

(B) In the case of a commercial vessel making a single voyage involving 2 or more United States ports with respect to which the passengers would otherwise be charged a fee pursuant to subsection (a)(5), such fee shall be charged only 1 time for each passenger.

(5) No fee may be charged under subsection (a)(1) for the arrival of—

(A) a vessel during a calendar year after a total of \$5,955 in fees (subject to adjustment under subsection (1)) charged under paragraph (1) or (8) of subsection (a) has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such vessel during such calendar year,

(B) any vessel which, at the time of the arrival, is being used solely as a tugboat, or

(C) any barge or other bulk carrier from Canada or Mexico.

(6) No fee may be charged under subsection (a)(8) for the arrival of a barge or other bulk carrier during a calendar year after a total of \$1,500 in fees (subject to adjustment under subsection (1)) charged under paragraph (1) or (8) of subsection (a) has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such barge or other bulk carrier during such calendar year.

(7) No fee may be charged under paragraph (2), (3), or (4) of subsection (a) for the arrival of any—

(A) commercial truck,

(B) railroad car, or

(C) private vessel,

that is being transported, at the time of the arrival, by any vessel that is not a ferry.

(8)(A)(i) Subject to clause (ii), the fee charged under subsection (a)(9) for the formal entry or release of merchandise may not exceed \$485 or be less than \$25, unless adjusted pursuant to subsection (a)(9)(B) or (1).

(ii) A surcharge of \$3 (subject to adjustment under subsection (1)) shall be added to the fee determined after application of clause (i) for any manual entry or release of merchandise.

(B) No fee may be charged under subsection (a) (9) or (10) for the processing of any article that is—

(i) provided for under any item in chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,

- (ii) a product of an insular possession of the United States,  
or
  - (iii) a product of any country listed in subdivision (c)(ii)(B) or (c)(v) of general note 3 to such Schedule.
- (C) For purposes of applying subsection (a) (9) or (10)—
- (i) expenses incurred by the Secretary of the Treasury in the processing of merchandise do not include costs incurred in—
    - (I) air passenger processing,
    - (II) export control, or
    - (III) international affairs, and
  - (ii) any reference to a manual formal or informal entry or release includes any entry or release filed by a broker or importer that requires the inputting of cargo selectivity data into the Automated Commercial System by customs personnel, except when—
    - (I) the broker or importer is certified as an ABI cargo release filer under the Automated Commercial System at any port within the United States, or
    - (II) the entry or release is filed at ports prior to the full implementation of the cargo selectivity data system by the Customs Service at such ports.
- (D) The fee charged under subsection (a)(9) or (10) with respect to the processing of merchandise shall—
- (i) be paid by the importer of record of the merchandise;
  - (ii) except as otherwise provided in this paragraph, be based on the value of the merchandise as determined under section 402 of the Tariff Act of 1930;
  - (iii) in the case of merchandise classified under subheading 9802.00.60 of the Harmonized Tariff Schedule of the United States, be applied to the value of the foreign repairs or alterations to the merchandise;
  - (iv) in the case of merchandise classified under heading 9802.00.80 of such Schedule, be applied to the full value of the merchandise, less the cost or value of the component United States products;
  - (v) in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, be applied only to the value of material used to make the container for such merchandise, if such merchandise is subject to entry and the container is of a kind normally used for packing such merchandise; and
  - (vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).

With respect to merchandise that is classified under subheading 9802.00.60 or heading 9802.00.80 of such Schedule and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a) (9) or (10) on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.

(E) For purposes of subsection (a) (9) and (10), merchandise is entered or released, as the case may be, if the merchandise is—

(i) permitted or released under section 448(b) of the Tariff Act of 1930,

(ii) entered or released from customs custody under section 484(a)(1)(A) of the Tariff Act of 1930, or

(iii) withdrawn from warehouse for consumption.

(9)(A) With respect to the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is \$2,000 or less (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930 and subject to adjustment under subsection (I)), except such items entered for transportation and exportation or immediate exportation at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following reimbursements and payments are required:

(i) In the case of a small airport or other facility—

(I) the reimbursement which such facility is required to make during the fiscal year under section 9701 of title 31, United States Code or section 236 of the Trade and Tariff Act of 1984; and

(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) for such fiscal year, in an amount equal to the reimbursement under subclause (I).

(ii) Notwithstanding subsection (e)(6) and subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility—

(I) \$.66 per individual airway bill or bill of lading (subject to adjustment under subsection (I)); and

(II) if the merchandise is formally entered, the fee provided for in subsection (a)(9), if applicable.

(B)(i) Beginning in fiscal year 2004, the Secretary of the Treasury may adjust (not more than once per fiscal year) the amount described in subparagraph (A)(ii) to an amount that is not less than \$.35 and not more than \$1.00 per individual airway bill or bill of lading (subject to adjustment under subsection (I)). The Secretary shall provide notice in the Federal Register of a proposed adjustment under the preceding sentence and the reasons therefor and shall allow for public comment on the proposed adjustment.

(ii) Notwithstanding section 451 of the Tariff Act of 1930, the payment required by subparagraph (A)(ii) (I) or (II) shall be the only payment required for reimbursement of the Customs Service in connection with the processing of an individual airway bill or bill of lading in accordance with such subparagraph and for providing services at express consignment carrier facilities or centralized hub facilities, except that the Customs Service may require such facilities to cover expenses of the Customs Service for adequate office space, equipment, furnishings, supplies, and security.

(iii)(I) The payment required by subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid on a quarterly basis by the carrier using the facility to the Customs

Service in accordance with regulations prescribed by the Secretary of the Treasury.

(II) 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall, in accordance with section 524 of the Tariff Act of 1930, be deposited in the Customs User Fee Account and shall be used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to express consignment carrier facilities or centralized hub facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of customs services to express consignment carrier facilities or centralized hub facilities.

(III) Notwithstanding section 524 of the Tariff Act of 1930, the remaining 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section.

(C) For purposes of this paragraph:

(i) The terms “centralized hub facility” and “express consignment carrier facility” have the respective meanings that are applied to such terms in part 128 of chapter I of title 19, Code of Federal Regulations. Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).

(ii) The term “small airport or other facility” means any airport or facility to which section 236 of the Trade and Tariff Act of 1984 applies, if more than 25,000 informal entries were cleared through such airport or facility during the preceding fiscal year.

*(D)(i) With respect to the processing of items that are sent to the United States through the international postal network by “Inbound Express Mail service” or “Inbound EMS” (as that service is described in the mail classification schedule referred to in section 3631 of title 39, United States Code), the following payments are required:*

*(I) \$1 per Inbound EMS item.*

*(II) If an Inbound EMS item is formally entered, the fee provided for under subsection (a)(9), if applicable.*

*(ii) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the payments required by clause (i), as allocated pursuant to clause (iii)(I), shall be the only payments required for reimbursement of U.S. Customs and Border Protection for customs services provided in connection with the processing of an Inbound EMS item.*

*(iii)(I) The payments required by clause (i) shall be allocated as follows:*

*(aa) 50 percent of the amount of the payments shall be paid on a quarterly basis by the United States Postal Service to the*

*Commissioner of U.S. Customs and Border Protection in accordance with regulations prescribed by the Secretary of the Treasury to reimburse U.S. Customs and Border Protection for customs services provided in connection with the processing of Inbound EMS items.*

*(bb) 50 percent of the amount of the payments shall be retained by the Postal Service to reimburse the Postal Service for services provided in connection with the customs processing of Inbound EMS items.*

*(II) Payments received by U.S. Customs and Border Protection under subclause (I)(aa) shall, in accordance with section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), be deposited in the Customs User Fee Account and used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to international mail facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of such services.*

*(III) Payments retained by the Postal Service under subclause (I)(bb) shall be used to directly reimburse the Postal Service for the costs incurred in providing services in connection with the customs processing of Inbound EMS items.*

*(iv) Beginning in fiscal year 2021, the Secretary, in consultation with the Postmaster General, may adjust, not more frequently than once each fiscal year, the amount described in clause (i)(I) to an amount commensurate with the costs of services provided in connection with the customs processing of Inbound EMS items, consistent with the obligations of the United States under international agreements.*

(10)(A) The fee charged under subsection (a) (9) or (10) with respect to goods of Canadian origin (as determined under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) when the United States-Canada Free-Trade Agreement is in force shall be in accordance with article 403 of that Agreement.

(B) For goods qualifying under the rules of origin set out in section 202 of the North American Free Trade Agreement Implementation Act, the fee under subsection (a) (9) or (10)—

(i) may not be charged with respect to goods that qualify to be marked as goods of Canada pursuant to Annex 311 of the North American Free Trade Agreement, for such time as Canada is a NAFTA country, as defined in section 2(4) of such Implementation Act; and

(ii) may not be increased after December 31, 1993, and may not be charged after June 29, 1999, with respect to goods that qualify to be marked as goods of Mexico pursuant to such Annex 311, for such time as Mexico is a NAFTA country.

Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(11) No fee may be charged under subsection (a) (9) or (10) with respect to products of Israel if an exemption with respect to the fee is implemented under section 112 of the Customs and Trade Act of 1990.

(12) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202

of the United States-Chile Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(13) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Singapore Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(14) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Australia Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(15) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(16) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Bahrain Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(17) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Oman Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(18) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Peru Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(19) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Korea Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(20) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Colombia Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(21) No fee may be charged under subsection (a)(9) or (10) with respect to goods that qualify as originating goods under section 203

of the United States–Panama Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(c) DEFINITIONS.—For purposes of this section—

(1) The term “ferry” means any vessel which is being used—

(A) to provide transportation only between places that are no more than 300 miles apart, and

(B) to transport only—

(i) passengers, or

(ii) vehicles, or railroad cars, which are being used, or have been used, in transporting passengers or goods.

(2) The term “arrival” means arrival at a port of entry in the customs territory of the United States.

(3) The term “customs territory of the United States” has the meaning given to such term by general note 2 of the Harmonized Tariff Schedule of the United States.

(4) The term “customs broker permit” means a permit issued under section 641(c) of the Tariff Act of 1930 (19 U.S.C. 1641(c)).

(5) The term “barge or other bulk carrier” means any vessel which—

(A) is not self-propelled, or

(B) transports fungible goods that are not packaged in any form.

(d) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the customs territory of the United States shall—

(A) collect from that individual the fee charged under subsection (a)(5) at the time the document or ticket is issued; and

(B) separately identify on that document or ticket the fee charged under subsection (a)(5) as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the customs territory of the United States is issued in a foreign country; and

(B) the fee charged under subsection (a)(5) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the customs territory of the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Secretary of the Treasury at any time before the date that is 31 days after the close of the calendar quarter in which the fees are collected.

(4)(A) Notice of the date on which payment of the fee imposed by subsection (a)(7) is due shall be published by the Secretary of the Treasury in the Federal Register by no later than the date that is 60 days before such due date.

(B) A customs broker permit may be revoked or suspended for nonpayment of the fee imposed by subsection (a)(7) only if notice

of the date on which payment of such fee is due was published in the Federal Register at least 60 days before such due date.

(C) The customs broker's license issued under section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) may not be revoked or suspended merely by reason of nonpayment of the fee imposed under subsection (a)(7).

(e) PROVISION OF CUSTOMS SERVICES.—

(1)(A) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights at customs serviced airports when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers.

(B)(i) An appropriate officer of U.S. Customs and Border Protection may assign a sufficient number of employees of U.S. Customs and Border Protection (if available) to perform services described in clause (ii) for a charter air carrier (as defined in section 40102 of title 49, United States Code) for a charter flight arriving after normal operating hours at an airport that is an established port of entry serviced by U.S. Customs and Border Protection, notwithstanding that overtime funds for those services are not available, if the charter air carrier—

(I) not later than 4 hours before the flight arrives, specifically requests that such services be provided; and

(II) pays any overtime fees incurred in connection with such services.

(ii) Services described in this clause are customs services for passengers and their baggage or any other similar service that could lawfully be performed during regular hours of operation.

(2)(A) This subsection shall not apply with respect to any airport to which section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) applies.

(B) Subparagraph (C) of paragraph (6) shall not apply with respect to any foreign trade zone or subzone that is located at, or in the vicinity of, an airport to which section 236 of the Trade and Tariff Act of 1984 applies.

(3) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law—

(A) the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights when needed at places located outside the customs territory of the United States at which a customs officer is stationed for the purpose of providing such customs services, and

(B) other than the fees imposed under subsection (a), the airlines and airline passengers shall not be required to reimburse the Secretary of the Treasury for the costs of providing overtime customs inspectional services at such places.

(4) Notwithstanding any other provision of law, all customs services (including, but not limited to, normal and overtime clearance and preclearance services) shall be adequately provided, when requested, for—

(A) the clearance of any commercial vessel, vehicle, or aircraft or its passengers, crew, stores, material, or cargo arriving, departing, or transiting the United States;

(B) the preclearance at any customs facility outside the United States of any commercial vessel, vehicle or aircraft or its passengers, crew, stores, material, or cargo; and

(C) the inspection or release of commercial cargo or other commercial shipments being entered into, or withdrawn from, the customs territory of the United States.

(5) For purposes of this subsection, customs services shall be treated as being “adequately provided” if such of those services that are necessary to meet the needs of parties subject to customs inspection are provided in a timely manner taking into account factors such as—

(A) the unavoidability of weather, mechanical, and other delays;

(B) the necessity for prompt and efficient passenger and baggage clearance;

(C) the perishability of cargo;

(D) the desirability or unavoidability of late night and early morning arrivals from various time zones;

(E) the availability (in accordance with regulations prescribed under subsection (g)(2)) of customs personnel and resources; and

(F) the need for specific enforcement checks.

(6) Notwithstanding any other provision of law except paragraph (2), during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected—

(A) for any—

(i) cargo inspection, clearance, or other customs activity, expense, or service performed (regardless whether performed outside of normal business hours on an overtime basis), or

(ii) customs personnel provided, in connection with the arrival or departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, in the United States;

(B) for any preclearance or other customs activity, expense, or service performed, and any customs personnel provided, outside the United States in connection with the departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, for the United States; or

(C) in connection with—

(i) the activation or operation (including Customs Service supervision) of any foreign trade zone or subzone established under the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.), or

(ii) the designation or operation (including Customs Service supervision) of any bonded warehouse under section 555 of the Tariff Act of 1930 (19 U.S.C. 1555).

(f) DISPOSITION OF FEES.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the “Customs User Fee Account”. Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), there shall be deposited as

offsetting receipts into the Customs User Fee Account all fees collected under subsection (a) except—

(A) the portion of such fees that is required under paragraph (3) for the direct reimbursement of appropriations, and

(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (4).

(2) Except as otherwise provided in this subsection, all funds in the Customs User Fee Account shall be available, to the extent provided for in appropriations Acts, to pay the costs (other than costs for which direct reimbursement under paragraph (3) is required) incurred by the United States Customs Service in conducting customs revenue functions as defined in section 415 of the Homeland Security Act of 2002 (other than functions performed by the Office of International Affairs referred to in section 415(8) of that Act), and for automation (including the Automation Commercial Environment computer system), and for no other purpose. To the extent that funds in the Customs User Fee Account are insufficient to pay the costs of such customs revenue functions, customs duties in an amount equal to the amount of such insufficiency shall be available, to the extent provided for in appropriations Acts, to pay the costs of such customs revenue functions in the amount of such insufficiency, and shall be available for no other purpose. The provisions of the first and second sentences of this paragraph specifying the purposes for which amounts in the Customs User Fee Account may be made available shall not be superseded except by a provision of law which specifically modifies or supersedes such provisions. So long as there is a surplus of funds in the Customs User Fee Account, the Secretary of the Treasury may not reduce personnel staffing levels for providing commercial clearance and preclearance services.

(3)(A) The Secretary of the Treasury, in accordance with section 524 of the Tariff Act of 1930 and subject to subparagraph (B), shall directly reimburse, from the fees collected under subsection (a) (other than the fees under subsection (a) (9) and (10) and the excess fees determined by the Secretary under paragraph (4)), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary—

(i) in—

(I) paying overtime compensation under section 5(a) of the Act of February 13, 1911,

(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the total cost of all the premium pay for such year calculated under section 5(b) and the cost of the night and holiday premium pay that the Customs Service would have incurred for the same inspectional work on the day before the effective date of section 13813 of the Omnibus Budget Reconciliation Act of 1993,

(III) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I),

(IV) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and

(V) paying foreign language proficiency awards under section 13812(b) of the Omnibus Budget Reconciliation Act of 1993,

(ii) to the extent funds remain available after making reimbursements under clause (i), in providing salaries for full-time and part-time inspectional personnel and equipment that enhance customs services for those persons or entities that are required to pay fees under paragraphs (1) through (8) of subsection (a) (distributed on a basis proportionate to the fees collected under paragraphs (1) through (8) of subsection (a), and

(iii) to the extent funds remain available after making reimbursements under clause (ii), in providing salaries for up to 50 full-time equivalent inspectional positions to provide preclearance services.

The transfer of funds required under subparagraph (C)(iii) has priority over reimbursements under this subparagraph to carry out subclauses (II), (III), (IV), and (V) of clause (i). Funds described in clause (ii) shall only be available to reimburse costs in excess of the highest amount appropriated for such costs during the period beginning with fiscal year 1990 and ending with the current fiscal year.

(B) Reimbursement of appropriations under this paragraph—

(i) shall be subject to apportionment or similar administrative practices;

(ii) shall be made at least quarterly; and

(iii) to the extent necessary, may be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.

(C)(i) For fiscal year 1991 and subsequent fiscal years, the amount required to reimburse costs described in subparagraph (A)(i) shall be projected from actual requirements, and only the excess of collections over such projected costs for such fiscal year shall be used as provided in subparagraph (A)(ii).

(ii) The excess of collections over inspectional overtime and preclearance costs (under subparagraph (A)(i)) reimbursed for fiscal years 1989 and 1990 shall be available in fiscal year 1991 and subsequent fiscal years for the purposes described in subparagraph (A)(ii), except that \$30,000,000 of such excess shall remain without fiscal year limitation in a contingency fund and, in any fiscal year in which receipts are insufficient to cover the costs described in subparagraph (A) (i) and (ii), shall be used for—

(I) the costs of providing the services described in subparagraph (A)(i), and

(II) after the costs described in subclause (I) are paid, the costs of providing the personnel and equipment described in subparagraph (A)(ii) at the preceding fiscal year level.

(iii) For each fiscal year, the Secretary of the Treasury shall calculate the difference between—

(I) the estimated cost for overtime compensation that would have been incurred during that fiscal year for inspectional

services if section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267), as in effect before the enactment of section 13811 of the Omnibus Budget Reconciliation Act of 1993, had governed such costs, and

(II) the actual cost for overtime compensation, premium pay, and agency retirement contributions that is incurred during that fiscal year in regard to inspectional services under section 5 of the Act of February 13, 1911, as amended by section 13811 of the Omnibus Budget Reconciliation Act of 1993, and under section 8331(3) of title 5, United States Code, as amended by section 13812(a)(1) of such Act of 1993, plus the actual cost that is incurred during that fiscal year for foreign language proficiency awards under section 13812(b) of such Act of 1993, and shall transfer from the Customs User Fee Account to the General Fund of the Treasury an amount equal to the difference calculated under this clause, or \$18,000,000, whichever amount is less. Transfers shall be made under this clause at least quarterly and on the basis of estimates to the same extent as are reimbursements under subparagraph (B)(iii).

(D) Nothing in this paragraph shall be construed to preclude the use of appropriated funds, from sources other than the fees collected under subsection (a), to pay the costs set forth in clauses (i), (ii), and (iii) of subparagraph (A).

(4)(A) There is created within the general fund of the Treasury a separate account that shall be known as the "Customs Commercial and Homeland Security Automation Account". In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), \$350,000,000.

(B) There is authorized to be appropriated from the Account in fiscal years 2016 through 2018 not less than \$153,736,000 to complete the development and implementation, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.

(5) Of the amounts collected in fiscal year 1999 under paragraphs (9) and (10) of subsection (a), \$50,000,000 shall be available to the Customs Service, subject to appropriations Acts, for automated commercial systems. Amounts made available under this paragraph shall remain available until expended.

(g) REGULATIONS AND ENFORCEMENT.—(1) The Secretary of the Treasury may prescribe such rules and regulations as may be necessary to carry out the provisions of this section. Regulations issued by the Secretary of the Treasury under this subsection with respect to the collection of the fees charged under subsection (a)(5) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes

imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1954, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

(2) Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee prescribed under subsection (a) of this section, and with respect to persons liable therefor, as if such fee is a customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the amount of the fee assessed. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any fee prescribed under subsection (a) of this section shall be treated as if such fee is a customs duty.

(h) CONFORMING AMENDMENTS.—(1) Subsection (i) of section 305 of the Rail Passenger Service Act (45 U.S.C. 545(i)) is amended by striking out the last sentence thereof.

(2) Subsection (e) of section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741(e)) is repealed.

(i) EFFECT ON OTHER AUTHORITY.—Except with respect to customs services for which fees are imposed under subsection (a), nothing in this section shall be construed as affecting the authority of the Secretary of the Treasury to charge fees under section 214(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 58a).

(j) EFFECTIVE DATES.—(1) Except as otherwise provided in this subsection, the provisions of this section, and the amendments and repeals made by this section, shall apply with respect to customs services rendered after the date that is 90 days after the date of enactment of this Act.

(2) Fees may be charged under subsection (a)(5) only with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 90 days after such date of enactment.

(3)(A) Fees may not be charged under paragraphs (9) and (10) of subsection (a) after July 21, 2027.

(B)(i) Subject to clause (ii), Fees may not be charged under paragraphs (1) through (8) of subsection (a) after September 30, 2027.

(ii) In fiscal year 2006 and in each succeeding fiscal year for which fees under paragraphs (1) through (8) of subsection (a) are authorized—

(I) the Secretary of the Treasury shall charge fees under each such paragraph in amounts that are reasonably related to the costs of providing customs services in connection with the activity or item for which the fee is charged under such paragraph, except that in no case may the fee charged under any such paragraph exceed by more than 10 percent the amount otherwise prescribed by such paragraph;

(II) the amount of fees collected under such paragraphs may not exceed, in the aggregate, the amounts paid in that fiscal year for the costs described in subsection (f)(3)(A) incurred in

providing customs services in connection with the activity or item for which the fees are charged under such paragraphs;

(III) a fee may not be collected under any such paragraph except to the extent such fee will be expended to pay the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activity or item for which the fee is charged under such paragraph; and

(IV) any fee collected under any such paragraph shall be available for expenditure only to pay the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activity or item for which the fee is charged under such paragraph.

(k) ADVISORY COMMITTEE.—The Commissioner of Customs shall establish an advisory committee whose membership shall consist of representatives from the airline, cruise ship, and other transportation industries who may be subject to fees under subsection (a). The advisory committee shall not be subject to termination under section 14 of the Federal Advisory Committee Act. The advisory committee shall meet on a periodic basis and shall advise the Commissioner on issues related to the performance of the inspectional services of the United States Customs Service. Such advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Commissioner shall give consideration to the views of the advisory committee in the exercise of his or her duties.

(l) ADJUSTMENT OF FEES FOR INFLATION.—

(1) IN GENERAL.—The Secretary of the Treasury shall adjust the fees established under subsection (a), and the limitations on such fees under paragraphs (2), (3), (5), (6), (8), and (9) of subsection (b), on April 1, 2016, and at the beginning of each fiscal year thereafter, to reflect the percentage (if any) of the increase in the average of the Consumer Price Index for the preceding 12-month period compared to the Consumer Price Index for fiscal year 2014.

(2) SPECIAL RULES FOR CALCULATION OF ADJUSTMENT.—In adjusting under paragraph (1) the amount of the fees established under subsection (a), and the limitations on such fees under paragraphs (2), (3), (5), (6), (8), and (9) of subsection (b), the Secretary—

(A) shall round the amount of any increase in the Consumer Price Index to the nearest dollar; and

(B) may ignore any such increase of less than 1 percent.

(3) CONSUMER PRICE INDEX DEFINED.—For purposes of this subsection, the term “Consumer Price Index” means the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

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**TRADE ACT OF 2002**

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**DIVISION A—TRADE ADJUSTMENT ASSISTANCE**

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**TITLE III—CUSTOMS REAUTHORIZATION**

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**Subtitle A—United States Customs Service**

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**CHAPTER 4—ANTITERRORISM PROVISIONS**

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**SEC. 343. MANDATORY [ADVANCED] ADVANCE ELECTRONIC INFORMATION FOR CARGO AND OTHER IMPROVED CUSTOMS REPORTING PROCEDURES**

(a) CARGO INFORMATION.—

(1) IN GENERAL.—(A) Subject to paragraphs (2) and (3), the Secretary is authorized to promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo to be brought into the United States or to be sent from the United States, prior to the arrival or departure of the cargo.

(B) The Secretary shall endeavor to promulgate an initial set of regulations under subparagraph (A) not later than October 1, 2003.

(2) INFORMATION REQUIRED.—The cargo information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information on cargo as the Secretary determines to be reasonably necessary to ensure cargo safety and security pursuant to those laws enforced and administered by the Customs Service. The Secretary shall provide to appropriate Federal departments and agencies cargo information obtained pursuant to paragraph (1).

(3) PARAMETERS.—In developing regulations pursuant to paragraph (1), the Secretary shall adhere to the following parameters:

(A) The Secretary shall solicit comments from and consult with a broad range of parties likely to be affected by the regulations, including importers, exporters, carriers, customs brokers, and freight forwarders, among other interested parties.

(B) In general, the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information. Where requiring information from the party with direct knowledge of that information is not practicable, the regulations shall

take into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true.

(C) The Secretary shall take into account the existence of competitive relationships among the parties on which requirements to provide particular information are imposed.

(D) Where the regulations impose requirements on carriers of cargo, they shall take into account differences among different modes of transportation, including differences in commercial practices, operational characteristics, and technological capacity to collect and transmit information electronically.

(E) The regulations shall take into account the extent to which the technology necessary for parties to transmit and the Customs Service to receive and analyze data in a timely fashion is available. To the extent that the Secretary determines that the necessary technology will not be widely available to particular modes of transportation or other affected parties until after promulgation of the regulations, the regulations shall provide interim requirements appropriate for the technology that is available at the time of promulgation.

(F) The information collected pursuant to the regulations shall be used exclusively for ensuring cargo safety and security, preventing smuggling, and commercial risk assessment targeting, and shall not be used for any commercial enforcement purposes, including for determining merchandise entry. Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 or regulations promulgated thereunder.

(G) The regulations shall protect the privacy of business proprietary and any other confidential cargo information provided to the Customs Service pursuant to such regulations, except for the manifest information collected pursuant to section 431 of the Tariff Act of 1930 and required to be available for public disclosure pursuant to section 431(c) of such Act.

(H) In determining the timing for transmittal of any information, the Secretary shall balance likely impact on flow of commerce with impact on cargo safety and security. With respect to requirements that may be imposed on carriers of cargo, the timing for transmittal of information shall take into account differences among different modes of transportation, as described in subparagraph (D).

(I) Where practicable, the regulations shall avoid imposing requirements that are redundant with one another or that are redundant with requirements in other provisions of law.

(J) The Secretary shall determine whether it is appropriate to provide transition periods between promulgation of the regulations and the effective date of the regulations and shall prescribe such transition periods in the regulations, as appropriate. The Secretary may determine that different transition periods are appropriate for different classes of affected parties.

[(K) With respect to requirements imposed on carriers, the Secretary, in consultation with the Postmaster General, shall determine whether it is appropriate to impose the same or similar requirements on shipments by the United States Postal Service. If the Secretary determines that such requirements are appropriate, then they shall be set forth in the regulations.]

*(K)(i) The Secretary, with the concurrence of the Secretary of State, shall prescribe regulations requiring the United States Postal Service to transmit the information described in paragraphs (1) and (2) to the Commissioner of U.S. Customs and Border Protection for international mail shipments by the Postal Service (including shipments to the Postal Service from foreign postal operators that are transported by private carrier) consistent with the requirements of this subparagraph.*

*(ii) In prescribing regulations under clause (i), the Secretary shall impose requirements for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) that are comparable to the requirements for the transmission of such information imposed on similar non-mail shipments of cargo, taking into account the parameters set forth in subparagraphs (A) through (J).*

*(iii) The regulations prescribed under clause (i) shall require the transmission of the information described in paragraphs (1) and (2) with respect to a shipment as soon as practicable in relation to the transportation of the shipment, consistent with subparagraph (H).*

*(iv) Regulations prescribed under clause (i) shall allow for the requirements for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) to be implemented in phases, as appropriate, by—*

*(I) setting incremental targets for increasing the percentage of such shipments for which information is required to be transmitted to the Commissioner; and*

*(II) taking into consideration—*

*(aa) the risk posed by such shipments;*

*(bb) the volume of mail shipped to the United States by or through a particular country; and*

*(cc) the capacities of foreign postal operators to provide that information to the Postal Service.*

*(v)(I) Notwithstanding clause (iv) and except as provided in subclause (II), the Postal Service shall, not later than December 31, 2018, arrange for the transmission to the Commissioner of the information described in paragraphs*

(1) and (2) for not less than 70 percent of the aggregate number of mail shipments described in clause (i).

(II)(aa) The requirements of subclause (I) may be waived for a period of not more than 180 days if, not later than December 31, 2018—

(AA) the Secretary and the Postmaster General, with the concurrence of the Secretary of State, determine that meeting those requirements is not feasible because of the lack of capacity of foreign postal operators to provide the Postal Service with the information described in paragraphs (1) and (2);

(BB) the Secretary and the Postmaster General, with the concurrence of the Secretary of State, determine that meeting those requirements is not feasible because of extraordinary reasons other than lack of capacity of foreign postal operators that are outside the control of the Postal Service; or

(CC) the Secretary of State determines that such a waiver is in the national security interests of the United States.

(bb) A waiver under item (aa) may be renewed for one additional period of not more than 180 days if a determination described in item (aa) is made for that period.

(III) If the requirements of subclause (I) are not met, the Comptroller General of the United States shall submit to the appropriate congressional committees, not later than January 31, 2020, a report—

(aa) assessing the reasons for the failure to meet those requirements; and

(bb) identifying recommendations to improve the collection by the Postal Service of the information described in paragraphs (1) and (2).

(vi)(I) Notwithstanding clause (iv) and except as provided in subclause (II), the Postal Service shall, not later than December 31, 2022, arrange for the transmission to the Commissioner of the information described in paragraphs (1) and (2) for not less than 95 percent of the aggregate number of mail shipments described in clause (i).

(II) The requirements of subclause (I) may be waived for a period of not more than one year if, not later than December 31, 2022—

(aa) the Secretary and the Postmaster General, with the concurrence of the Secretary of State, determine that meeting those requirements is not feasible because of—

(AA) the lack of capacity of foreign postal operators to provide the Postal Service with the information described in paragraphs (1) and (2); or

(BB) extraordinary reasons other than lack of capacity of foreign postal operators that are outside the control of the Postal Service; or

(bb) the Secretary of State determines that such a waiver is in the national security interests of the United States.

(vii) *Not later than 15 days before making a determination under clause (v) or (vi) that meeting the requirements of that clause is not feasible, the Secretary and the Postmaster General shall submit to the appropriate congressional committees a notification of the determination. The notification shall include—*

(I) *in the case of a determination under clause (v)(II)(aa)(AA) or (vi)(II)(aa)(AA)—*

(aa) *a list of which foreign postal operators lack the capacity to provide the information described in paragraphs (1) and (2) to the Postal Service;*

(bb) *a description of the efforts by the Postal Service made to obtain that information from those operators; and*

(cc) *a plan for obtaining that information from those operators; and*

(II) *in the case of a determination under clause (v)(II)(aa)(BB) or (vi)(II)(aa)(BB)—*

(aa) *a description of the extraordinary reasons outside the control of the Postal Service; and*

(bb) *a plan for obtaining the transmission of information described in paragraphs (1) and (2) as required by clause (v) or (vi), as applicable.*

(viii) *The Secretary and the Postmaster General may, in consultation with the Secretary of State, as necessary, take all appropriate remedial measures necessary to ensure compliance with regulations prescribed under clause (i) and consistent with the obligations of the United States under international agreements, including refusal of shipments for which the information described in paragraphs (1) and (2) is not transmitted as required under this subparagraph.*

(ix) *Nothing in this subparagraph shall be construed to limit the authority of the Secretary to obtain information relating to international mail shipments from private carriers or other appropriate parties.*

(x) *In this subparagraph, the term “appropriate congressional committees” means—*

(I) *the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and*

(II) *the Committee on Ways and Means and the Committee on Oversight and Government Reform of the House of Representatives.*

(L) *Not later than 15 days prior to publication of a final rule pursuant to this section, the Secretary shall transmit to the Committees on Finance and Commerce, Science, and Transportation of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report setting forth—*

(i) *the proposed regulations;*

(ii) *an explanation of how particular requirements in the proposed regulations meet the needs of cargo safety and security;*

(iii) an explanation of how the Secretary expects the proposed regulations to affect the commercial practices of affected parties;

(iv) an explanation of how the proposed regulations address particular comments received from interested parties; and

(v) if the Secretary determines to amend the proposed regulations after they have been transmitted to the Committees pursuant to this subparagraph, the Secretary shall transmit the amended regulations to such Committees no later than 5 days prior to the publication of the final rule.

(4) TRANSMISSION OF DATA.—Pursuant to paragraph (2), not later than 1 year after the date of enactment of this paragraph, the Secretary of Homeland Security, after consultation with the Secretary of the Treasury, shall establish an electronic data interchange system through which the United States Customs and Border Protection shall transmit to the Internal Revenue Service information pertaining to cargoes of any taxable fuel (as defined in section 4083 of the Internal Revenue Code of 1986) that the United States Customs and Border Protection has obtained electronically under its regulations adopted in accordance with paragraph (1). For this purpose, not later than 1 year after the date of enactment of this paragraph, all filers of required cargo information for such taxable fuels (as so defined) must provide such information to the United States Customs and Border Protection through such electronic data interchange system.

(5) CAPACITY BUILDING.—

(A) IN GENERAL.—*The Secretary, with the concurrence of the Secretary of State, and in coordination with the Postmaster General and the heads of other Federal agencies, as appropriate, may provide technical assistance, equipment, technology, and training to enhance the capacity of foreign postal operators—*

*(i) to gather and provide the information required by paragraph (3)(K); and*

*(ii) to otherwise gather and provide postal shipment information related to—*

*(I) terrorism;*

*(II) items the importation or introduction of which into the United States is prohibited or restricted, including controlled substances; and*

*(III) such other concerns as the Secretary determines appropriate.*

(B) PROVISION OF EQUIPMENT AND TECHNOLOGY.—*With respect to the provision of equipment and technology under subparagraph (A), the Secretary may lease, loan, provide, or otherwise assist in the deployment of such equipment and technology under such terms and conditions as the Secretary may prescribe, including nonreimbursable loans or the transfer of ownership of equipment and technology.*

(b) [omitted - amendatory]

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(c) SECRETARY.—For purposes of this section, the term “Secretary” means the Secretary of the Treasury. If, at the time the regulations required by subsection (a)(1) are promulgated, the Customs Service is no longer located in the Department of the Treasury, then the Secretary of the Treasury shall exercise the authority under subsection (a) jointly with the Secretary of the Department in which the Customs Service is located.

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