This rule codifies these civil penalty amounts by amending parts 1264 and 1271 of title 14 of the CFR.

III. Legal Authority and Effective Date

NASA issues this rule under the Federal Civil Penalties Inflation Adjustment Act of 1990,[3] as amended by the Debt Collection Improvement Act of 1996,[4] and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,[5] which requires NASA to adjust the civil penalties within its jurisdiction for inflation according to a statutorily prescribed formula.

Section 553 of title 5 of the United States Code generally requires an agency to publish a rule at least 30 days before its effective date to allow for advance notice and opportunity for public comments.[6] After the initial adjustment for 2016, however, the Civil Penalties Inflation Adjustment Act requires agencies to make subsequent annual adjustments for inflation ''notwithstanding section 553 of title 5, United States Code.'' Moreover, the 2021 adjustments are made according to a statutory formula that does not provide for agency discretion. Accordingly, a delay in effectiveness of the 2021 adjustments is not required.

IV. Regulatory Requirements

Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under E.O. 12866 and was not reviewed by the Office of Management and Budget (OMB).

Executive Order 13771

This rule is not an E.O. 13771 regulatory action because this final rule is not significant under E.O. 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[7]

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,[8] NASA reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects in 14 CFR Parts 1264 and 1271

Claims, Lobbying, Penalties.

For the reasons stated in the preamble, the National Aeronautics and Space Administration is amending 14 CFR parts 1264 and 1271 as follows:

PART 1264—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL PENALTIES ACT OF 1986

■ 1. The authority citation for part 1264 continues to read as follows:

Authority: 31 U.S.C. 3809, 51 U.S.C. 20113(a).

§ 1264.102 [Amended]

■ 2. In § 1264.102, remove the number ''$11,665'' everywhere it appears and add in its place the number ''$11,803.''

PART 1271—NEW RESTRICTIONS ON LOBBYING

■ 3. The authority citation for part 1271 continues to read as follows:

Authority: Section 319, Pub. L. 101–121 (31 U.S.C. 1352); Pub. L. 97–258 (31 U.S.C. 6301 *et seq.*)

§ 1271.400 [Amended]

■ 4. In § 1271.400:

■ a. In paragraphs (a) and (b), remove the words ''not less than $20,489 and not more than $204,892'' and add in their place the words ''not less than $20,731 and not more than $207,314.''

■ b. In paragraph (e), remove the two occurrences of ''$20,489'' and add in their place ''$20,731'' and remove ''$204,892'' and add in its place ''$207,314.''

Appendix A to Part 1271 [Amended]

■ 5. In appendix A to part 1271:

■ a. Remove the number ''$20,489'' everywhere it appears and add in its place the number ''$20,731.''

■ b. Remove the number ''$204,892'' everywhere it appears and add in its place the number ''$207,314.''

Nanette J. Smith,

Team Lead, NASA Directives and Regulations Management.

[FR Doc. 2021–05312 Filed 3–12–21; 8:45 am]

BILLING CODE 7510–13–P

[3] Public Law 101–410, 104 Stat. 890 (1990).

[4] Public Law 104–134, section 31001(s)(1), 110 Stat. 1321, 1321–373 (1996).

[5] Public Law 114–74, section 701, 129 Stat. 584, 599 (2015).

[6] *See* 5 U.S.C. 533(d).

[7] 5 U.S.C. 603(a), 604(a).

[8] 44 U.S.C. 3506.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Parts 4, 122, 123, 145, and 149

[Docket No. USCBP–2021–0009; CBP Dec. 21–04]

RIN 1651–AB33

Mandatory Advance Electronic Information for International Mail Shipments

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Interim final rule; request for comments.

SUMMARY: To address the threat of synthetic opioids and other dangerous items coming to the United States in international mail shipments and to implement the requirements of the Synthetics Trafficking and Overdose Prevention Act of 2018 (STOP Act), U.S. Customs and Border Protection (CBP) is amending its regulations to require the United States Postal Service (USPS) to transmit certain advance electronic information to CBP. These amended regulations provide that, for certain inbound international mail shipments, CBP must electronically receive from USPS, within specified time frames, certain mandatory advance electronic data (AED) and updates thereto. These regulations describe the new mandatory AED requirements, including the types of inbound international mail shipments for which AED is required, the time frame in which USPS must provide the required AED to CBP, and the criteria for the exclusion from AED requirements for mail shipments from specific countries. The regulations also address compliance dates and the necessary remedial actions that must be taken with respect to shipments for which USPS has not complied with AED requirements.

DATES:

Effective date: This interim final rule is effective March 15, 2021.

Comment date: Comments must be received by May 14, 2021.

ADDRESSES: Please submit any comments, identified by docket number [USCBP–2021–0009], by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Due to relevant COVID–19-related restrictions, CBP has temporarily suspended its on-site public inspection of submitted comments.

FOR FURTHER INFORMATION CONTACT: Quintin Clarke, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs & Border Protection, by telephone at (202) 344–2524, or email at *quintin.g.clarke@cbp.dhs.gov.*

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Glossary of Terms Used

ACAS Air Cargo Advance Screening
AED Advance Electronic Data
APA Administrative Procedure Act
APO Army Post Office
CBP U.S. Customs and Border Protection
CDC Centers for Disease Control and Prevention
CFR Code of Federal Regulations
DHS Department of Homeland Security
DPO Diplomatic Post Office
EMS Inbound Express Mail Service
FPO Foreign Postal Operators
IMPC International Mail Processing Center
IMF International Mail Facility
ISC International Service Center
ISF Importer Security Filing
ITMATT Item Attribute Information
MOU Memorandum of Understanding
NTC National Targeting Center
OMB Office of Management and Budget
PLACI Pre-Loading Advance Cargo Information
PREDES Pre-Advice of Despatch Information
SAFE Port Act Security and Accountability for Every Port Act of 2006
SOP Standard Operating Procedures
STOP Act Synthetics Trafficking and Overdose Prevention Act of 2018
UPU Universal Postal Union
USPS United States Postal Service
WCO World Customs Organization

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this interim final rule. The Department of Homeland Security (DHS) and CBP also invite comments that relate to the economic, environmental, or federalism effects that might result from this interim final rule. Comments that will provide the most assistance to CBP will reference a specific portion of the interim final rule, explain the reason for any recommended change, and include data, information, or authority that supports the recommended change.

DHS and CBP specifically invite comments on the following issues, discussed in the rule document below:

• Whether CBP should require AED on mail shipments classified as EMS or parcel post regardless of whether these are identified as containing documents;

• Whether CBP should require AED on mail that is sent using channels that USPS identifies as ''domestic'' even as these remain subject to customs examination, including: Mail from APO/FPO/DPO addresses; mail to/from U.S. territories and possessions, or to/from/between the Freely Associated States of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; returned U.S. origin items; and items transiting the U.S. in closed transit;

• Whether updates to the AED should be required until the mail shipment has arrived at the first CBP port;

• If any data elements identified as optional under this rule should be deemed mandatory;

• The costs to USPS to return mail without AED;

• Comments on CBP's flexible enforcement policy.

II. Executive Summary

The United States is experiencing the worst drug overdose epidemic since the 1990s. In recent years, there has been a marked increase in the consumption of illicit opioids, such as heroin and its synthetic analogues, such as fentanyl. In 2016, there were nearly 64,000 overdose deaths, of which two-thirds involved opioids, including fentanyl.[1] From 2016 to 2017, synthetic opioid-involved death rates increased by 45.2 percent.[2] In light of this, the President declared a public health emergency in 2017,[3] and the Secretary for Health and Human Services made a determination that a public health emergency exists nationwide.[4] The public health crisis continues unabated as rate of overdose deaths has sharply accelerated in the coronavirus disease (COVID–19)

[1] U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report: Drug and Opioid-Involved Overdose Deaths—United States, 2013–2017,* Vol. 67, Nos. 51 & 52, 1419–27 (January 4, 2019), available at *https://www.cdc.gov/mmwr/volumes/67/wr/mm675152e1.htm* (last accessed, June 17, 2019).

[2] *Id.*

[3] *Establishing the President's Commission on Combating Drug Addiction and the Opioid Crisis,* 82 FR 16283 (Apr. 3, 2017) (Executive Order 13784 of Mar. 29, 2017).

[4] *https://www.phe.gov/emergency/news/healthactions/phe/Pages/opioid-19apr2019.aspx.*

pandemic[5] and synthetic opioids (primarily illicitly manufactured fentanyl) appear to be the primary driver of the increases in overdose deaths.[6]

On October 24, 2018, Congress enacted the Synthetics Trafficking and Overdose Prevention Act of 2018 (STOP Act), primarily to fight the influx of deadly opioids, particularly synthetic opioids such as fentanyl, coming to the United States in international mail shipments.[7] Among other things, the STOP Act amends section 343(a)(3) of the Trade Act of 2002 to require CBP to issue regulations requiring the United States Postal Service (USPS) to transmit certain advance electronic data (AED) to CBP for international mail shipments. The AED required by this rule includes various details about the package's sender, recipient and contents, information that is generally provided by foreign senders on customs declarations forms, but only on paper copies that are affixed to the packages. It is the same information that is currently required by the UPU and CBP on existing custom declaration forms and that is provided by foreign senders.

The current paper process has made it difficult for CBP to most effectively use the information for targeting packages containing illegal goods since CBP processing has relied mostly on physical inspection of the declarations and the packages.

In recent years and in advance of the enactment of the STOP Act, USPS has been working with CBP through pilot programs to provide the information received on customs declaration forms to CBP electronically and in advance of arrival of the package. This assists CBP in its targeting of high risk shipments. The international postal community has also been moving towards requiring AED for mail shipments if required by customs and security authorities in the country of destination. However, the international mail customs process remains largely paper-based and there is currently no regulation requiring AED for mail shipments. As required by the STOP Act, this rule addresses that gap. Requiring USPS to transmit AED to CBP for international mail shipments will make data requirements for international mail shipments comparable to existing AED requirements currently imposed on non-mail shipments of cargo, subject to the parameters set forth in section 343(a)(3) of the Trade Act of 2002 (19 U.S.C. 1415). The principal benefit of this rule will be a more precise identification of at-risk postal shipments in advance of arrival of the package. The required AED will enable CBP to better target and identify risky mail shipments and is expected to disrupt the supply chain of illegal opioids and other dangerous goods. The lack of required AED for mail shipments presents a security gap that could be exploited by bad actors because it hinders CBP's ability to effectively target for illegal opioids and other dangerous goods before they enter the commerce of the United States. Requiring AED for mail shipments will enhance the security of the supply chain with respect to international mail shipments by giving CBP adequate time and information necessary to perform targeted risk assessments geared towards interdicting illicit and dangerous goods before they enter the U.S. mail system. This will improve CBP's ability to detect and disrupt the flow of illicit supply chains that exploit the postal environment and will reduce the risk that shipments of illicit fentanyl and other dangerous goods will enter the country.

This rule would impose costs on CBP and USPS in the form of increased technology costs to set up targeting systems to identify mail to be inspected based on the AED, as well as training costs, and hold processing costs. Costs to the United States government total an undiscounted $55.8 million over a ten-year period of analysis. This rule would also impose costs on foreign posts in the form of technology costs needed to transmit AED to the USPS, training costs, and the time cost to key in AED. The principal benefit of the rule is more precise identification of mail shipments with illicit goods, including fentanyl, at an earlier time, improving CBP's effectiveness in preventing prohibited mail items from reaching the United States. Accepting the high degree of uncertainty, taking account of the magnitude of the underlying problem, and recognizing that the rule is likely to have additional benefits from assisting CBP's targeting to prevent smuggling of items other than fentanyl, DHS believes, in the terms of Executive Order 13563, ''that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify).''

In developing these regulations, CBP considered the process and information flow unique to the movement of international mail to the United States, international efforts to develop AED requirements, and the AED requirements that apply to non-mail shipments arriving in the United States. The required AED consists of two elements: (1) Information already collected through the customs declaration forms attached to incoming mail, including the contents and value of the goods in the package as well as sender and recipient information; and (2) information about the movement of the package, such as the date and time of departure of the transporting conveyance, the scheduled date and time of arrival in the United States, transportation information (*e.g.,* carrier, flight number, voyage number), and destination International Mail Facility (IMF).[8] Taking into account how the international mail process works, these requirements are comparable to the requirements for the transmission of AED imposed on similar non-mail shipments of cargo and are consistent with the requirement in section 343(a)(3) of the Trade Act of 2002 (19 U.S.C. 1415) that regulations developed under the Act consider certain parameters.[9] These parameters include, among others, consulting parties likely to be affected by the regulations, considering existing commercial practices, and taking into account the extent to which the technology necessary for parties to transmit the information is available. See 19 U.S.C. 1415(a)(3).

The new regulations provide that for certain inbound international mail shipments, CBP must electronically receive from USPS, within specified time frames, certain mandatory AED and updates thereto. The AED requirement generally pertains to all mail shipments except for *letter class*

[5] White House, Notice on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) Pandemic, February 24, 2021. Available at *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/* (last accessed February 24, 2021).

[6] Centers for Disease Control, Press Release, *Overdose Deaths Accelerated During COVID–19: Expanded Prevention Efforts Needed,* December 17, 2020, available at *https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html* (last accessed February 20, 2021).

[7] Synthetics Trafficking and Overdose Prevention Act of 2018 (STOP Act), Subtitle A of Title VIII of the Substance Abuse-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT for Patients and Communities Act), Public Law 115–271 (2018); *see also* H.R. Rep. No. 115–722, pt. 1, at 7 (2018).

[8] In the United States, the IMF is operated by CBP. The new regulations define IMF as an ''official international mail processing center operated by CBP.''

[9] The Postal Accountability and Enhancement Act (PAEA) also mandates that CBP will afford comparable treatment to shipments of international mail that are competitive products, regardless of whether these are shipments by the Postal Service or shipments by private companies. *See* 39 U.S.C. 407(e).

mail—documents.[10] *Letter class mail—documents* means letter class mail containing only documents (*i.e.,* any piece of written, drawn, printed or digital information), excluding objects of merchandise, and may include M-bags to the extent that such items do not contain goods. This exception for *letter class mail—documents* is comparable with the current AED requirements for non-mail, which do not apply to letters and documents. Specifically, the new regulations provide that USPS must transmit AED for inbound international mail shipments containing goods classified as Express Mail Service (EMS), parcel post, or *Letter class mail—goods,* unless a shipment originates from a country that CBP has, in accordance with the procedures set forth in the new regulations,[11] excluded from the AED requirements and has informed USPS of the exclusion. The new regulations will not require AED for *letter class mail—documents* and items for the blind consisting of correspondence, literature in whatever format including sound recordings, and equipment or materials of any kind made or adapted to assist blind persons in overcoming the problems of blindness (up to 7 kilograms). Under this rule, AED will also not be required for items sent as Parcel Post or EMS that do not contain goods. Similarly, AED will not be required for returned U.S. origin items, items transiting the U.S. in closed transit, items sent as U.S. domestic mail, or mail treated as domestic, including mail to or from APO, FPO, and DPO addresses, mail to or from U.S. territories and possessions, and mail, from or between the Freely Associated States of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. However, this exclusion does not preclude CBP's existing authority to inspect any of these shipments. Pursuant to the new regulations, USPS must provide the required AED to CBP as soon as practicable, but no later than prior to loading the inbound international mail shipment onto the transporting conveyance. Additionally, USPS must electronically provide CBP with updates to the AED as soon as USPS becomes aware of any changes to the submitted data or as soon as it becomes aware that more accurate data is available, until the timeframes for updated AED set forth in the Air Cargo Advance Screening (ACAS) regulations at 19 CFR 122.48b(b)(2).

In accordance with the STOP Act, these regulations also contain the criteria by which certain mail shipments from specific countries may be excluded from the requirement to provide AED. Namely, if a specific country or countries do not have the capacity to collect and transmit AED, represent a low risk for mail shipments that violate relevant U.S. laws and regulations, and account for low volumes of mail shipments that can be effectively screened for compliance with relevant U.S. laws and regulations through an alternative means, they may be excluded from the AED requirement. CBP will re-evaluate determinations to exclude specific countries from the requirement to provide AED at a minimum, on an annual basis.

Additionally, these regulations incorporate provisions of the STOP Act that address compliance dates, as well as the necessary remedial actions that must be taken with respect to shipments for which USPS has not complied with the AED requirements.

To implement the AED requirements, CBP is adding a new subpart G to title 19 of the Code of Federal Regulations (CFR) part 145. Title 19 CFR part 145 covers Mail Importations. The new subpart G is titled Mandatory Advance Electronic Data for Mail Shipments. CBP is also making certain revisions to 19 CFR 145.0 to expand the scope of 19 CFR part 145 to include the AED provisions. Additionally, CBP is making revisions to 19 CFR 4.7, 122.0, 123.0, and 149.1 to refer readers looking for the AED requirements for international mail shipments to part 145.

The new subpart G of 19 CFR part 145, consists of three new sections. New § 145.73 adds various definitions specific to the subpart, new § 145.74 provides details regarding the mandatory AED CBP must receive from USPS, and new § 145.75 provides the applicable penalties if USPS accepts a shipment in violation of the regulations.

III. Background

A. Purpose of Rule

As explained in the Executive Summary, the United States is experiencing the worst drug overdose epidemic since the 1990s. The nature of this drug use and overdose has changed over the decades since it first began. Initially characterized by the abuse of prescription opioids, drug use shifted towards the consumption of illicit opioids, such as heroin, in the 2000s. In recent years, there has been a shift towards the use of synthetic opioids, such as fentanyl, particularly as suppliers have begun mixing synthetic opioids into heroin in order to decrease their costs. For the reasons explained below, this shift towards synthetic opioids has led to a marked increase in the number of overdose deaths. The consumption of synthetic opioids is particularly worrisome given this class of drugs' high lethality. Fentanyl is 40 times more potent than heroin [12] and 100 times more potent than morphine, a common prescription opiate.[13] Moreover, consumers of other opioids may be unaware of the presence of synthetic opioids in the drugs they purchase through non-prescription means. The heroin supply has been contaminated with fentanyl, and counterfeit opioid pills are laced with fentanyl, unbeknownst to many users.[14] According to drug seizure data from the DEA National Forensic Laboratory Information System, fentanyl reports have increased fifty-fold between 2013 and 2017.[15] According to data from the Centers for Disease Control and Prevention (CDC), there were nearly 64,000 drug overdose deaths in 2016, of which two thirds (or, approximately 42,000) involved opioids. Moreover, the sharpest increase in overdose deaths between 2015 and 2016 occurred in deaths related to synthetic opioids, including fentanyl.[16] From 2016 to 2017, synthetic opioid-involved death rates increased again by 45.2 percent.[17] In March 2017, the Commission on Combating Drug Addiction and the

[10] The UPU uses slightly different terminology (letter post instead of letter class), however, existing CBP regulations use the term *letter class mail,* thus CBP uses *letter class mail* in this rule to maintain consistency throughout CBP regulations.

[11] New 19 CFR 145.74(e) provides that CBP will consult with USPS in order to make this determination.

[12] Ciccarone, D. (2017). Fentanyl in the US heroin supply: A rapidly changing risk environment. *International Journal of Drug Policy,* 46: 107–111, 3.

[13] Centers for Disease Control and Prevention (CDC), *Synthetic Opioid Overdose Data.* Last updated December 19, 2018. Available at *https://www.cdc.gov/drugoverdose/data/fentanyl.html* (last accessed February 22, 2021).

[14] Centers for Disease Control and Prevention (CDC), *Increases in Fentanyl Drug Confiscations and Fentanyl-related Overdose Fatalities.* Released October 26, 2015. Available at *https://emergency.cdc.gov/han/han00384.asp* (last accessed February 22, 2021).

[15] U.S. Drug Enforcement Administration (DEA), *National Forensic Laboratory Information System: Special Maps Release. Tracking Fentanyl and Fentanyl-Related Substances Reported in NFLIS-Drug by State, 2016–2017.* Washington, DC: Department of Justice at 2, Available at: *https://www.nflis.deadiversion.usdoj.gov/DesktopModules/ReportDownloads/Reports/NFLISDrugSpecialRelease-Fentanyl-FentanylSubstancesStateMaps-2016-2017.pdf.*

[16] U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report: Drug and Opioid-Involved Overdose Deaths—United States, 2013–2017,* Vol. 67, Nos. 51 & 52, 1419–27 (January 4, 2019), available at *https://www.cdc.gov/mmwr/volumes/67/wr/mm675152e1.htm* (last accessed, June 17, 2019).

[17] *Id.*

Opioid Crisis declared a public health emergency under the Public Health Services Act.[18] Subsequently, on October 26, 2017, the Secretary of Health and Human Services made a determination that a public health emergency existed nationwide as a result of the consequences of the opioid crisis. This determination of a public health emergency has been consistently renewed and remains active. Renewals are located on the Public Health Emergency website.[19] The COVID–19 pandemic has only intensified this public health crisis as the rate of overdose deaths has sharply increased during the pandemic and synthetic opioids (primarily illicitly manufactured fentanyl) appear to be the primary driver of the increases in overdose deaths.[20] According to the CDC, the pandemic has accelerated drug overdose deaths, resulting in over 81,000 drug overdose deaths in the 12-month period ending in May 2020 (CDC 2020). CDC notes that ''synthetic opioids (primarily illicitly manufactured fentanyl) appear to be the driver,'' increasing 38.4 percent relative to the prior year. Ten western states reported a more than 98 percent increase in synthetic opioid-involved deaths over the same period.[21]

Synthetic opioids circulating in the United States generally originate internationally (principally from China and Mexico) and arrive into the United States through the international mail system, express consignment carriers, cross-border smuggling operations, and other means.[22] CBP is responsible for screening inbound international mail for and removing packages with dangerous goods (including but not limited to opioids) from the mail stream before delivery to intended recipients in the United States. The number of packages flowing through the international mail system has increased dramatically in recent years due to the proliferation of e-Commerce and an increase in the threshold value of goods that can be imported into the United States free of duties and taxes.[23] This increased volume of parcels coupled with the urgency of the opioid epidemic requires that CBP utilize its resources more effectively to target and intercept packages with illegal goods. Despite this increase in the volume of mail, there is currently no requirement in the CBP regulations regarding the transmission of AED for mail shipments. To fulfill the STOP Act mandate to stem the flow of deadly opioids and to facilitate the interdiction of suspect packages, CBP is establishing in this rule requirements for USPS to transmit certain AED for inbound international mail shipments. The required AED will also enable CBP to better target and identify all risky mail shipments and is expected to disrupt the supply chain of illegal opioids and other dangerous goods. The current lack of required AED for mail shipments presents a security gap that could be exploited by bad actors because it hinders CBP's ability to effectively target for dangerous goods before they enter the commerce of the United States. Requiring AED for mail shipments will enhance the security of the supply chain with respect to international mail shipments and help close this security gap by giving CBP adequate time and information necessary to perform targeted risk assessments geared towards interdicting dangerous goods before they enter the U.S. mail system.

B. Statutory and Regulatory History

1. Statutory History

Congress has long recognized that the provision of AED for imported cargo shipments is an essential security tool which enables CBP to perform advance targeting before the shipments arrive in the United States, and has authorized CBP to prescribe regulations that mandate the provision of AED.

Section 343(a) of the Trade Act of 2002 authorizes CBP to promulgate regulations, in accordance with certain parameters,[24] providing for the mandatory transmission of cargo information by way of a CBP-approved electronic data interchange (EDI) system before the cargo is brought into or departs the United States by any mode of commercial transportation. The required cargo information is that which is reasonably necessary to enable high-risk cargo to be identified for purposes of ensuring cargo safety and security, pursuant to the laws enforced and administered by CBP.

Section 203 of the Security and Accountability for Every Port Act of 2006 (Pub. L. 109–347, 120 Stat 1884) (SAFE Port Act), requires the Secretary of Homeland Security, acting through the Commissioner of CBP, to promulgate regulations requiring the electronic transmission of additional data elements for improved high-risk targeting, including appropriate security elements of entry data for cargo destined to the United States by vessel. These electronic data elements are required prior to loading the cargo on vessels at foreign seaports.

Most recently, on October 24, 2018, Congress enacted the ''Substance Use—Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act'' (SUPPORT for Patients and Communities Act). Public Law 115–271. Title VIII of this law is the ''Synthetics Trafficking and Overdose Prevention Act of 2018'' (STOP Act), which mandates certain actions regarding mail.[25] Section 8003 of the STOP Act amends section 343(a)(3)(K) of the Trade Act of 2002, to require DHS to prescribe regulations mandating that USPS transmit certain advance electronic information for international mail

[18] *Establishing the President's Commission on Combating Drug Addiction and the Opioid Crisis,* 82 FR 16283 (Apr. 3, 2017) (Executive Order 13784 of March 29, 2017).

[19] *See https://www.phe.gov/emergency/news/healthactions/phe/Pages/opioid-2april2020-aspx.aspx* and *https://www.phe.gov/emergency/news/healthactions/phe/Pages/opioid-24jan2020.aspx;* see also, *https://www.phe.gov/newsroom/Pages/healthactions.aspx.*

[20] Centers for Disease Control, Press Release, *Overdose Deaths Accelerated During COVID–19: Expanded Prevention Efforts Needed,* December 17, 2020, available at *https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html* (last accessed February 20, 2021).

[21] *Id.*

[22] Fentanyl from China generally enters the United States in one of two ways: It is either shipped directly to the United States or is sent to Canada or Mexico before being trafficked across the border. Mexico also sources fentanyl locally. Fentanyl originating from China is highly pure, while the drugs sourced from Mexico are largely impure. U.S. Department of Justice, Drug Enforcement Administration, *2018 National Drug Threat Assessment,* DEA–DCT–DIR–032–18, pp. 33–36 (Oct. 2018), available at *https://www.dea.gov/sites/default/files/2018-11/DIR-032-18%202018%20NDTA%20final%20low%20resolution.pdf* (last accessed, February 20, 2021); *see also* U.S. Department of Justice, Drug Enforcement Administration, *2019 National Drug Threat Assessment,* DEA–DCT–DIR–007–20 (Dec. 2019), available at *https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf* (last accessed, February 20, 2021.

[23] Interim final rule, Administrative Exemption on Value Increased for Certain Articles, 81 FR 58831 (Aug. 26, 2016); *see also* De Minimis Value Increases to $800. CBP News Release, dated March 11, 2016, available at *https://www.cbp.gov/newsroom/national-media-release/de-minimis-value-increases-800* (last accessed, June 16, 2019).

[24] Section 343(a)(3) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)) provides parameters for developing regulations under the Act, such as consulting parties likely to be affected by the regulations, considering existing commercial practices, and taking into account the extent to which the technology necessary for parties to transmit the information is available.

[25] Section 8002 of the STOP Act imposes new payment requirements for items that are sent to the United States through the international postal network by Inbound Express Mail service (EMS). This section also requires the Secretary of the Treasury to prescribe new regulations in this regard. The regulations to implement section 8002 of the STOP Act was the focus of a separate CBP and Department of the Treasury rulemaking. 85 FR 47018 (Aug. 4, 2020).

shipments to CBP.[26] This rule implements the AED requirements set forth in the STOP Act.[27]

2. Regulatory History

The AED requirements as currently provided in CBP's regulations pursuant to the Trade Act of 2002 and the SAFE Port Act are described below. They generally require the carrier or other eligible parties to provide certain AED to CBP. The specific requirements vary by mode of transportation.

i. Trade Act of 2002 Implementing Regulations

On December 5, 2003, CBP published a final rule in the **Federal Register** (68 FR 68140) to effectuate the provisions of the Trade Act of 2002 (Trade Act final rule). The Trade Act final rule amended the regulations in title 19, Code of Federal Regulations (CFR), to require carriers or other eligible parties to submit certain electronic data for cargo in advance, *i.e.,* AED. The required time frame varies depending on the mode of transportation:

- For vessel cargo, the AED must be received by CBP 24 hours before the cargo is laden aboard the vessel at the foreign port. 19 CFR 4.7.
- For air cargo, the AED must be received by CBP either: (1) No later than the time of the departure of the aircraft for the United States,[28] in the case of aircraft that depart for the United States from any foreign port or place in North America, including locations in Mexico, Central America, South America (from north of the Equator only), the Caribbean, and Bermuda; or (2) no later than 4 hours prior to the arrival of the aircraft in the United States, in the case of aircraft that depart for the United States from any foreign area other than that specified in 19 CFR 122.48a(b)(1). 19 CFR 122.48a(b)(1).
- For rail cargo, the AED must be received by CBP no later than 2 hours prior to the cargo reaching the first port of arrival in the United States. 19 CFR 123.91.
- For truck cargo, the AED must be received by CBP no later than either 30 minutes or 1 hour prior to the carrier's reaching the first port of arrival in the United States, or such lesser time as authorized, based upon the CBP-approved system employed to present the information. 19 CFR 123.92.

To date, no rule has been published that extends the advance electronic cargo information mandate to USPS shipments.

ii. SAFE Port Act and ISF Regulations

Pursuant to section 203 of the SAFE Port Act, and section 343(a) of the Trade Act of 2002, on November 25, 2008, CBP published an interim final rule in the **Federal Register** (73 FR 71730), requiring importers (referred to as ISF importers) and carriers to submit additional information pertaining to cargo before the cargo is brought into the United States by vessel.[29] This became known as the Importer Security Filing or ''ISF'' rule. The ISF rule was silent on whether it covered mail shipments or whether USPS is considered to be an ISF importer. To date, CBP has not required ISF information from USPS.

iii. ACAS Regulations

To address ongoing aviation security threats, on June 12, 2018, CBP published an interim final rule in the **Federal Register** entitled, ''Air Cargo Advance Screening (ACAS)'' (83 FR 27380), which amended the CBP Trade Act regulations to implement a mandatory ACAS program. Under this program, specified AED must be submitted to CBP for air cargo transported onboard U.S.-bound aircraft as early as practicable, but no later than prior to loading of the cargo onto the aircraft. *See* 19 CFR 122.48b(b)(1). The party submitting the initial ACAS data must also update the initial filing if any submitted data changes or more accurate data becomes available, up until the timeframes specified in 19 CFR 122.48a(b) for submitting advance information under 19 CFR 122.48a(a). *See* 19 CFR 122.48b(b)(2). The required ACAS data is a subset of the data required under 19 CFR 122.48a. The ACAS program enhances the security of the aircraft and passengers on U.S.-bound flights by enabling CBP to perform targeted risk assessments on the air cargo earlier, namely, prior to the aircraft's departure for the United States. These risk assessments aim to identify and prevent high-risk air cargo from being loaded on the aircraft that could pose a risk to the aircraft during flight.

iv. Mail Importation Regulations

Title 19 CFR part 145 contains the specific requirements and procedures for the importation of mail subject to customs examination. These regulations are discussed in section III.C (AED and the Mail System), below. There is currently no AED requirement for mail shipments in 19 CFR part 145.

C. AED and the Mail System

Currently, the AED requirements described in section III.B. (Statutory and Regulatory History) above have not been applied to items being shipped via the international mail system. This is due to unique circumstances that pertain to international mail shipments that do not exist for non-mail shipments. Specifically, there are different processes, technologies, and international agreements that apply to international mail shipments that are not applicable to non-mail shipments. These differences must be taken into account in developing AED requirements for international mail. This rule establishes AED requirements for international mail that take its unique circumstances into account. CBP has consulted with USPS in the development of this rule.

The sections below describe in detail the CBP requirements and processes for mail shipments, the international transmission of AED and USPS's transmission of that AED to CBP.

1. The International Mail System for Inbound U.S. Mail

International mail destined for the United States is customarily collected at origin country local branches (*i.e.,* local post offices) of foreign postal operators (FPOs), moved to larger international mail processing centers (IMPCs),[30] sorted and loaded for transport to the

[26] Sec. 802, Consolidated Appropriations Act, 2021, Public Law 116–260 (Dec. 27, 2020), further amended certain provisions of the Trade Act of 2002, such that during the period beginning on January 1, 2021, through March 15, 2021, the Postmaster General may accept a shipment without transmission of AED if the Commissioner determines, or concurs with the determination of the Postmaster General, that the shipment presents a low risk of violating any relevant United States statutes or regulations, including statutes or regulations relating to the importation of controlled substances such as fentanyl and other synthetic opioids.

[27] In keeping with the requirements of the Trade Act of 2002, these regulations are developed in adherence to the parameters set forth in section 343(a)(3) of the Trade Act of 2002 (19 U.S.C. 1415(A)(3)).

[28] The trigger time is no later than the time that wheels are up on the aircraft, and the aircraft is en route directly to the United States. 68 FR 68140; *see also,* 19 CFR 122.48a(b).

[29] The ISF requirements apply to vessels and are requirements in addition to what is required pursuant to the Trade Act rule. In general, ISF importers must submit the required information 24 hours before the cargo is laden aboard the vessel at the foreign port. In general, carriers are required to provide stow plan information 48 hours after the vessel departs from the last foreign port, or for voyages less than 48 hours, prior to arrival. *See* 19 CFR part 149 (AED requirements for ISF importers) and 19 CFR 4.7c (AED requirements for carriers); *see also* 19 CFR 4.7d.

[30] In the United States, IMPCs are referred to as ''International Mail Facilities'' or IMFs. In this document, we use the term IMPC where the reference is to a facility located outside the United States and the term IMF when the reference is to a facility located within the United States.

United States.[31] Most mail is transported to the United States in the cargo portion of commercial carrier flights, although some mail may be transported via sea, rail, or land. IMPCs communicate the pending arrival of mail shipments via an automated messaging system described in further detail below. Mail arrives in the United States at a CBP port of arrival. After arrival it is transferred to an International Mail Facility (IMF) or International Service Center (ISC) for processing and inspection by USPS and CBP.[32] Once mail is cleared by CBP, it enters the domestic mail stream.[33]

The international mail system is governed by the Universal Postal Union (UPU). The UPU was established in 1874 and has its headquarters in Berne, Switzerland. It is a specialized agency of the United Nations that governs the international movement of mail amongst its over 190 member countries under the Universal Postal Convention. Members of the UPU agree to provide a ''single postal territory'' for international mail, which involves responsibility for sending and receiving international mail across a global network of cooperating posts. The UPU establishes the rules for international mail exchange among its members and provides technical assistance to improve the quality of postal services. It is the primary forum for cooperation between postal sector entities across a global network of posts. The United States is a member of the UPU. Pursuant to 39 U.S.C. 407, the Department of State, in collaboration with USPS represents the United States at the UPU.[34] USPS is the designated postal operator in the United States and is required to accept and deliver inbound international mail on behalf of foreign postal operators.

Both documents and goods may be transported through the international mail system. There are four main classes of mail relevant to this rule, described in more detail in section IV.B (Definitions) and C (Mandatory Advance Electronic Data (AED)): *Letter class mail—documents, Letter class mail—goods* (also referred to as ''small packets''), Parcel post, and Express Mail Service (EMS).[35] Most countries, including the United States, impose customs requirements only on packages containing goods. For these, customs declaration forms with specific data requirements agreed to at the UPU are used worldwide.[36] For the most part, the international mail process is paper-based and involves the sender providing information to an FPO using paper forms that are affixed to the package and the FPOs submitting that information/form to the destination post. In the case of the United States, the destination post is USPS. USPS in turn submits this information to CBP. In the electronic environment, information also travels between established postal networks and uses existing messaging standards. In order to require AED for mail shipments to the United States, FPOs first have to develop the capability to provide AED to USPS. Until recently, that capability was non-existent. However, in recent years, a number of FPOs, as well as the United States, have been moving towards providing AED for mail, and USPS has been actively pursuing data sharing agreements with several countries that would require the mutual transmission of AED. Concurrently, the UPU has developed a Customs Declaration System (CDS) that can be used by any country to collect and transmit customs data and the United States has been assisting with capacity building efforts. As a result of the STOP Act and other international efforts to require AED for international mail, the capability and the provision of AED for international mail shipments has been increasing and is now likely to be accelerated.

In general terms, all international mail arriving into the United States is subject to examination by CBP. Initially, all packages enter the mail facility through a portal designed to detect radiation. Once inside the facility, a subset of packages is targeted for additional non-intrusive inspection, and a subset of these undergoes further visual inspection by CBP officers. Due to the large volume of mail arriving in the United States on a daily basis, it is not feasible for CBP to inspect every package for illegal or dangerous items. Therefore, CBP has established protocols to determine which packages it will consider for inspection based on intelligence surrounding known risks, referred to as targeting.

As noted above, the United States and various other members of the UPU have improved technical capabilities to provide AED in the postal environment in recent years. At present, a number of FPOs collect and share AED with USPS voluntarily or on the basis of mutual agreements. The AED generally includes the same information collected on the customs declarations forms for mail.[37]

Since 2014, USPS and CBP have been engaged in a pilot program at various IMFs to use the inbound AED collected by USPS to develop more automated and sophisticated targeting systems. The pilot program is described in more detail in section III.C.5 (Current USPS Transmission of AED to CBP). AED allows CBP to target based on information customarily provided by the sender on the customs declarations forms. This information is received by USPS, which in turn provides it to CBP. CBP officers analyze the information at targeting facilities, including the CBP Office of Field Operations National Targeting Center (NTC), and at IMFs in the United States. This electronic data-driven approach is expected to result in better targeting of packages most likely to contain illegal goods. Moreover, because AED data can be analyzed prior to the arrival of a package at the IMF, the provision of AED will enable CBP to place a hold request on a package in time for USPS to prepare its systems to locate the package. While CBP expects to utilize AED targeting alongside other risk assessment methods and random inspections, the mandatory provision of AED will enable more sophisticated and

[31] For further information about IMPCs see: *http://www.upu.int/en/activities/standards/impcs.html.*

[32] IMFs are CBP facilities. USPS has a presence at each IMF. At four of the IMFs USPS operates a major ISC.

[33] The mail inspection process is described in detail in sections III.C.1 (The International Mail System for Inbound Mail) and III.C.5 (Current USPS Transmission of AED to CBP).

[34] Pursuant to 39 U.S.C. 407, the Secretary of State is responsible for the formulation, coordination and oversight of foreign policy related to international postal services, and has the power to conclude postal treaties, conventions and amendments related to the same. In addition, in carrying out the aforementioned responsibilities, the Secretary of State shall coordinate with other agencies as appropriate, and include appropriate liaison with the USPS. See 39 U.S.C. 407(b).

[35] As noted earlier, the UPU uses slightly different terminology, *i.e.,* letter post rather than letter class, however, in order to remain consistent with existing CBP regulations, this rule will use the term letter class.

[36] Specifically, the UPU forms CN 22 and 23 as described in the Acts of the UPU (which include the UPU Constitution, General Regulations, Convention, Convention Regulations, and Postal Payment Services Agreement). The United States requires a customs declaration on certain incoming mail, as set forth in 19 CFR part 145, subpart B. The forms CN 22 and CN 23, provided by the foreign postal operators to the sender, are used for such purpose. As such, the forms indicate the sending country. In general terms, the CN 22 requires, inter alia, the item ID (barcode), sender name, address (a sender may also provide a telephone/fax/email), recipient name and address, description of contents, quantity, weight, and value, conditionally requires the HS Tariff number, country of origin and comments (*e.g.* whether goods are subject to quarantine, sanitary/phytosanitary inspection or other restrictions), and contains a section for the mailing office to place a date stamp, thus providing the mailing date. The CN 23 is required for items valued over $300. The CN 23 requires the same information as the CN22, as well as postal charges/fees, conditionally requires a license number, certificate number and invoice number, optionally requires the importer's reference number and telephone/email.

[37] Currently, these are usually the UPU forms CN 22 and CN 23.

efficient targeting moving forward. As the volume of mail received in the United States steadily rises, the ability to target better and more efficiently is of critical importance.

2. Current CBP Regulatory Requirements for Mail Shipments to the United States

Title 19 CFR part 145 contains the specific requirements and procedures for the importation of mail subject to CBP examination. Currently, the focus of these regulations is on duties and entry requirements and it does not include an AED requirement for mail shipments. This rule amends the existing regulations to add a new subpart G to part 145 to cover AED for mail shipments. Several sections included in part 145 are relevant to this rule.

Section 145.1 provides definitions for *mail article* and *letter class mail.* A *mail article* is any posted parcel, packet, package, envelope, letter, aerogramme, box, card, or similar article or container, or any contents thereof, which is transmitted in mail subject to customs examination. *Letter class mail* is any mail article, including packages, post cards, and aerogrammes, mailed at the letter rate or equivalent class or category of postage. This rule adds some new definitions in the new subpart G that are relevant to the AED provisions, including definitions of *letter class mail—documents* and *letter class mail—goods.* Pursuant to § 145.11(a), a clear and complete Customs declaration on the form provided by the foreign post office, giving a full and accurate description of the contents and value of the merchandise, must be securely attached to at least one mail article of each shipment. Currently, this requirement is satisfied by attaching a UPU declaration form. This requirement generally does not apply to *letter class mail—documents.*

The above provisions will continue to apply to 19 CFR part 145, including the new subpart G regarding AED.

3. Process for Mail Shipments to the United States

Most international mail comes to the United States by air, although it can be transported by any mode of transportation. The mail process is briefly described below.

International mail is generally subject to customs control and eligible mail items are accompanied by paper forms.[38] After receipt of the mail item with paper forms that satisfy the requirements of 19 CFR 145.11,[39] the FPO assigns it to a labeled receptacle, typically a bag or tray. Receptacles are then assigned to a dispatch. A dispatch is a shipment of receptacles of the same mail category and class sent from one post to another. A dispatch may consist of only one receptacle (*e.g.,* bag or tray) or may consist of several, depending on the volume of mail at the time. Each dispatch is accompanied by a paper bill describing the dispatch.[40] This ''dispatch level information'' includes information relating to the origin and destination post, dispatch number, date of departure of the transporting conveyance, scheduled international mail facility, total weight of dispatch, and similar information for receptacles contained within the dispatch.[41] Individual receptacles of a dispatch do not always stay together as they progress through the supply chain. The FPO hands over the receptacles to the transporting carrier, along with dispatch level information on the mail to be conveyed.[42] The carrier does not receive any item level information about the contents or other data about mail items in the receptacles.

The carrier assigns receptacles to a specific transport—referred to as a consignment—regardless of the dispatch (or dispatches) to which the receptacles belong. The transporting carrier, pursuant to CBP manifest requirements, manifests the shipment as receptacles of mail. Upon arrival in the United States at a CBP port of arrival the mail is transferred to an IMF or ISC for processing and inspection by USPS and CBP.[43] USPS scans the barcoded receptacle IDs, opens the receptacles, and scans the barcoded mail as received. USPS is generally required to present all inbound mail to CBP for inspection. CBP then selects mail for inspection based on its risk determinations, as described above. Subject to certain exceptions, CBP can open any mail item and hold it for further examination or review. Once the mail is cleared, CBP returns it to USPS to be introduced to the domestic USPS network and delivered to its final destination.

As described further in section III.C.5 (Current USPS Transmission of AED to CBP), USPS transmits AED to CBP only in those cases where the sending FPO has an agreement with USPS and USPS actually receives AED, and where the pilot program between CBP and USPS for the transmission of such AED is operational. In cases where CBP does not receive AED for a mail shipment, the only information CBP receives is on the paper forms affixed to the package.[44] This means that CBP generally only gets an opportunity to access this information when the mail shipment is physically presented. This paper process does not provide sufficient time for CBP to evaluate risks in advance or even after the items have been presented, due to the steadily increasing volume of mail reaching the United States and the need for speedy clearance for domestic distribution of the mail.

4. International Framework for the Provision of AED for Mail Shipments

In 2012, with strong U.S. encouragement, the UPU resolved to advance an international mail security model that would rely on the provision of AED, adopting Article 8 (Postal Security) of the Universal Postal

[38] These are UPU Forms CN 22 and 23. For examples of the CN 22 and CN 23 forms, see the WCO–UPU Postal Customs Guide, Universal Postal Union (June 2014) at pages 31, 33, found at *http://www.upu.int/en/activities/customs/wco-upu.html.* See also, footnote 36. Letters and papers sent letter class mail to the United States are generally not subject to customs control.

[39] These are the UPU forms CN 22 and CN 23. For more information, see footnotes 36 and 40.

[40] These are the UPU forms CN 31 letter bill, CN 32 letter bill for bulk mail or CP 87 parcel bills. See *http://www.upu.int/en/activities/letter-post/form-completion-instructions.html, http://www.upu.int/en/activities/parcels/form-completion-instructions.html* (last accessed July 24, 2019).

[41] In UPU terms, when this information is transmitted electronically, it may be referred to as ''pre-advice of dispatch'' or PREDES. As described in section IV (Mandatory AED for Mail Shipments) below, the U.S. receives this information electronically, *i.e.,* as PREDES, in situations where the USPS–CBP pilot is active and a data sharing agreement exists between the United States and the origin post.

[42] In UPU terms, this dispatch level information conveyed to the carrier is referred to as ''carrier/documents international transport advice.'' The information is provided via copies of the paper Delivery Bills CN 38 and CN 41, or the equivalent electronic message referred to by the UPU as CARDIT. The information contains dispatch level information similar to the information the destination post receives, as well as the origin post's expectation of the transport service for the consignment of mail receptacles assigned to the carrier.

[43] The USPS has nine international mail processing facilities in the United States. Five of these facilities are designated as International Service Centers (ISCs) and they process inbound international mail originating from, and dispatch outbound international mail destined to, foreign countries. The five ISCs are located in: New York City, New York; Miami, Florida; Los Angeles, California; San Francisco, California; and Chicago, Illinois. USPS also receives international mail in four smaller facilities in Honolulu, Hawaii; Newark, New Jersey; San Juan, Puerto Rico; and St. Thomas, U.S. Virgin Islands. In this rule, we will refer to USPS facilities collectively as ''mail facilities'' unless it is necessary to make a specific reference to an ISC. Separately, CBP has nine International Mail Facilities (IMFs), located at or near the USPS mail facilities, in: New York City, New York; Miami, Florida; Los Angeles, California; San Francisco, California; Chicago, Illinois; Honolulu, Hawaii; Newark, New Jersey; San Juan, Puerto Rico; and St. Thomas, U.S. Virgin Islands. In our document, we will refer to the CBP facilities as IMFs.

[44] As noted earlier, these are the UPU forms CN 22 and CN 23. For more, see footnotes 36 and 40.

Convention to provide for the exchange of AED, effective January 1, 2014.[45] As a result, the UPU established an AED task force to help guide and accelerate programs necessary to advance the provision of AED by the UPU membership. This entailed the member countries' agreeing on a standardized AED message format, having the UPU develop Information Technology (IT) systems capable of transmitting AED, and fostering efforts to build capacity by providing these IT systems (and training) to postal operators in need of them. These efforts have increased the adoption of AED exchanges among UPU members and have made it easier for countries to participate. The UPU and its member countries continue to move towards making AED mandatory if required by destination customs and/or security authorities.

Separately, the World Customs Organization (WCO)[46] SAFE Framework of Standards of 2015[47] provides standards on implementing a Pre-loading Advance Cargo Information (PLACI) regime as an additional layer of security for air cargo and mail shipments. Specifically, a PLACI regime includes the submission of pre-loading data (7+1 data elements)[48] by various entities in the air cargo supply chain, including ''Postal Operators,'' as soon as the information becomes available, but no later than prior to loading the cargo/mail shipment onto the aircraft.[49] The goal is to ensure a harmonized approach towards the implementation of the PLACI regimes, so that Members may align their efforts to the fullest extent possible.

The AED requirements set forth in this rule are consistent with these international programs.

5. Current USPS Transmission of AED to CBP

Since the enactment of the Trade Act of 2002, the United States and a number of other industrialized countries have improved their technical capabilities to provide AED. AED for inbound international mail is made possible by FPOs collecting and sharing the data with USPS voluntarily, through bilateral or multilateral agreements. In order to receive AED from a foreign post, USPS needs to sign a data sharing agreement that sets out the appropriate data formats to be used, privacy considerations, and regulatory requirements. USPS has leveraged its provision of AED for outbound shipments to incentivize FPOs to provide AED for inbound shipments. Additionally, USPS has prioritized obtaining AED from the largest volume FPOs, which collectively account for more than 90 percent of all inbound volume. Currently, USPS has data sharing agreements with about 150 foreign postal operators, though such data sharing agreements do not imply that a foreign post is actually tendering data to USPS. Such agreements rather provide a mechanism for the exchange of such data were it to occur.

Currently, USPS adheres to global standards established by the UPU for the particular data element requirements for the AED it collects. These data elements include item information[50] (referred to by the UPU as ITMATT, which is the Item Attribute EDI message standard) such as the sender's full name and address (including full business name), the recipient's full name and address, the stated content description, unit of measure, and the quantity, weight, value, and date of the mailing.[51] The data also includes receptacle and flight arrival information (referred to by the UPU as PREDES).[52] As detailed in section IV.C.4.a (Item Attribute Information), with the exception of the elements declared value and designated operator, the required data elements are comparable to the information CBP requires under ACAS and the Trade Act of 2002 implementing regulations.[53] In general, under the pilot FPOs are required to submit AED up to four hours prior to loading. The pilot is discussed in greater detail below.

USPS and CBP began a pilot program in 2014 at the New York IMF to use the inbound AED that USPS collects as detailed above to facilitate more automated and advance targeting by CBP. Starting in 2015, similar pilot programs and targeting based on AED have been expanded to include seven IMFs. Concurrently, on September 1, 2017, CBP and USPS signed a Memorandum of Understanding (MOU) in which both agencies agreed to collaborate together on day-to-day operations, strategic planning, and other initiatives related to the inspection of goods imported and exported through the mail, including the transmission of AED.[54] To date, the pilots cover seven IMFs, and pursuant to these pilots USPS transmits AED to CBP on incoming mail, assuming it is provided with the AED by the FPO. The pilots are voluntary and even FPOs with agreements with the USPS do not provide AED on all mail sent to the United States and there are no consequences for non-compliance.

Pursuant to the pilot, if USPS receives AED, USPS provides CBP with that AED via electronic message files from the USPS Electronic Manifest-Central Database (EM–CDB) system to CBP's Automated Targeting System (ATS)[55] to enable CBP to review and target specific high-risk mail items prior to their arrival in the United States. AED allows CBP to target based on the same information provided by the sender on the customs declarations forms (including sender

[45] Joint WCO–UPU Guidelines on the Exchange of Electronic Advance Data (EAD) Between Designated Operators and Customs Administrators, at 12, available at *http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/joint-wco-upu-guidelines.aspx* (last accessed July 31, 2019).

[46] The World Customs Organization (WCO) is an independent intergovernmental body with a mission to enhance the effectiveness and efficiency of Customs administrations. The WCO provides a forum for dialogue between national Customs delegations, technical assistance and training. It is also a global center of customs expertise in all modes of traffic, including postal traffic. WCO–UPU Postal Customs Guide, Universal Postal Union (June 2014) at page 6.

[47] Acronym for Framework of Standards to Secure and Facilitate Global Trade (''SAFE Framework of Standards'').

[48] The shipper name and address (referred to as the consignor per the WCO guidelines), consignee name and address, cargo description, piece count, weight and the air waybill number. See Annex III of the SAFE Framework of Standards.

[49] Representative PLACI regimes include the United States Air Cargo Advance Screening (ACAS), Canada Pre-load Air Cargo Targeting (PACT), and European Union Pre-load consignment information for secure entry (PRECISE).

[50] This item information is the same information collected using UPU forms CN 22 and 23 in the paper environment. For additional information, see Section III.C.1 (International Mail System for Inbound Mail) and footnotes 36, and Section III.C.2 (Current CBP Requirements for Mail Shipments to the U.S.) and footnote 40.

[51] *See generally,* Joint WCO–UPU Guidelines on the Exchange of Electronic Advance Data (EAD) Between Designated Operators and Customs Administrators, available at *http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/joint-wco-upu-guidelines.aspx* (last accessed July 24, 2019).

[52] This information is the same information collected using UPU forms CN 31, 32 and 87 in the paper environment. For additional information, see Section III.C.2 (Current CBP Requirements for Mail Shipments to the U.S.) and footnotes 40, 41, and 42.

[53] As noted previously, the element relating to declared value is required on the customs declarations forms. The designated operator generally appears on these forms. (Designated operator is the entity officially designated by a member country of the UPU to operate postal services and fulfill its treaty obligations to the UPU and is usually the entity that issues the declaration forms. For example, in the United States, the designated operator is USPS and is reflected on the USPS declaration forms for use by senders mailing items to destinations outside the United States. Similarly, the declaration forms for mail coming to the United States generally reflect the designated operator of the sending post/country).

[54] The MOU was updated in June 2019 and again in December 2020.

[55] The CBP Automated Targeting System (ATS) is the system of data CBP currently uses for this purpose.

name, recipient name, and the contents of the package), except in the AED environment this information is provided in advance in electronic form. This AED is analyzed by CBP officers at IMFs using locally developed algorithms as well as intelligence linked to their system from the NTC and local law enforcement. For example, CBP officers may flag a package being sent by a known distributor of illicit drugs. CBP identifies the individual target items by placing what is called an electronic hold on the item. An electronic hold is transmitted to USPS using a secure file transfer protocol between CBP and USPS that is automated and takes place in near real-time. USPS then uses its barcode tracking and scanning system to locate the inbound targeted high-risk items with electronic holds. The holds are executed at the USPS mail facilities, downstream plants or delivery units. Once located, USPS presents the targeted items to CBP for inspection.

The USPS–CBP AED pilot programs, which are voluntary and depend upon mutual agreement with some, but not all FPOs, will be replaced by the AED regulatory program when this rule takes effect. After implementation of the rule, the AED requirement will be mandatory and enforceable.

IV. Mandatory AED for Mail Shipments

To fulfill the STOP Act mandate to stem the flow of deadly opioids and to facilitate the interdiction of suspect packages, CBP is establishing requirements for USPS to transmit certain AED for inbound international mail shipments. This AED consists of two elements—''Item attribute information'' and ''Pre-advice of despatch information''.

Item attribute information is the information about the attributes (characteristics) of mail items and their contents already collected through the customs declaration forms, including the contents and value of the goods in the package as well as sender and recipient information.[56] USPS will collect this information from its counterparts at foreign posts through existing ''ITMATT'' electronic messages.

Pre-advice of despatch information is information about the shipment (''dispatch'' or ''despatch'')[57] of mail receptacles of the same category and class sent from one post to another that includes the mail item. This information relates to the movement of the package by a carrier and is information of the type customarily collected by USPS via letter or parcel bills,[58] including the scheduled date and time of arrival in the United States, transportation information (*e.g.,* carrier, flight number, voyage number), and destination IMF.[59] USPS will collect this information from its counterparts at foreign posts through existing ''PREDES'' electronic messages.

Obtaining this ITMATT information and the dispatch level information as AED will enable CBP to better identify, target and mitigate high-risk mail shipments.

Taking into account how the international mail process works, these requirements are comparable to the requirements for the transmission of AED imposed on similar non-mail shipments and are consistent with the requirement in section 343(a)(3) of the Trade Act of 2002 (19 U.S.C. 1415) that regulations developed under the Act consider certain parameters.[60] As described in section III.B (Statutory and Regulatory History), CBP's AED requirements for non-mail shipments vary depending on the mode of transportation and generally require the carrier to transmit the information to CBP. However, the requirements for transmission of AED for mail shipments must follow the international postal framework which does not vary based on mode of transportation. Additionally, the STOP Act specifically provides that USPS must provide AED for mail shipments to CBP.[61] For non-mail, the AED requirements generally pertain to carriers and other eligible parties. Accordingly, the AED requirements set forth in this rule are comparable to the AED requirements for non-mail. These AED requirements will be the only AED requirements applicable to USPS for inbound international mail shipments at this time.

In order to implement mandatory AED for mail shipments, CBP must adhere to the parameters applicable to the development of regulations under section 343(a) of the Trade Act of 2002. While public health, safety and national security are paramount, the Trade Act of 2002 parameters require CBP to give due consideration to the concerns of the affected parties and the flow of commerce. These parameters include, among others, provisions requiring consultation with the affected parties and consideration of the differences in the practices among the different parties in comparable non-mail shipments. In addition, the parameters require that the information collected pursuant to the regulations be used for ensuring cargo safety and security, preventing smuggling, and commercial risk assessment targeting, and require CBP to balance the expected improvement in cargo safety and security with the impact of this information collection and targeting on the flow of commerce. The parameters also require that the obligations imposed must generally be upon the party most likely to have direct knowledge of the required information and mandate that if this is not feasible, that the obligations imposed take into account ordinary commercial practices for receiving data and what the party transmitting the information reasonably believes to be true. In developing the AED regulations, CBP has considered all of the parameters.

For this rule, USPS is the party responsible for providing AED to CBP. Throughout the development of the AED pilot and this interim final rule, CBP gathered information from the USPS about its business practices, the international mail system, and how to best formulate the mandatory AED requirements to take these business practices into consideration in developing a regulatory program that addressed the relevant security and public health concerns. As a result of these consultations, CBP has been able to develop AED regulations that, in accordance with the parameters of the Trade Act of 2002, balance the expected improvements in cargo safety and security with the impact of the regulations on the flow of commerce, and take into consideration existing standard business practices and interactions among stakeholders.

In developing these regulations, CBP also considered both the process and information flow with regard to the movement of international mail to the United States and international efforts

[56] For a more detailed discussion of this information as collected in the paper environment, see Section III.C.1 (International Mail System for Inbound Mail) and footnote 36, and Section III.C.2 (Current CBP Requirements for Mail Shipments to the U.S.) and footnote 40.

[57] Despatch is an international term of art used in UPU documentation. CBP has used the term here for consistency. The ''pre-advice of despatch information'' is usually referred to by its acronym PREDES in the AED format.

[58] The UPU forms CN 31, 32, and 87. For more information, see footnote 40.

[59] For a more detailed discussion of this information as collected in the paper environment, see Section III.C.2 (Current CBP Requirements for Mail Shipments to the U.S.) and footnotes 40, 41, and 42.

[60] The PAEA also mandates that CBP will afford comparable treatment to shipments of international mail that are competitive products, regardless of whether these are shipments by the Postal Service or shipments by private companies. *See* 39 U.S.C. 407.

[61] While the STOP Act requires regulations that require USPS to provide AED for international mail shipments to CBP, it does not preclude CBP from imposing requirements to obtain AED relating to international mail shipments from other appropriate parties, such as private carriers. *See* section 343(a)(3)(K)(viii) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(viii)). This rule only addresses the AED that must be provided by USPS.

to develop AED requirements. As described in section III.C (AED and the Mail System), the information regarding the item to be shipped to the United States is provided by the foreign sender to the FPO, the FPO provides the information to USPS, and USPS provides the information to CBP. Although the current process for providing the data is often a paper-based process, under the provisions of this rule, the pertinent information must be provided by USPS to CBP electronically in advance, *i.e.,* as AED. It is important to note that the ITMATT data that USPS must provide to CBP electronically under this rule is the same data that USPS receives from the FPO via the customs declarations forms, which CBP is able to access when packages are presented for inspection.[62] Similarly, the PREDES data is the same information that USPS receives from the FPOs on certain UPU forms.[63] The key difference is that under this rule CBP will receive the data in electronic form prior to the arrival of the mail shipments, which will allow for sophisticated and more effective targeting than the pre-rule paper- based process. Under the pilot programs between CBP and USPS and when information sharing agreements exist between the USPS and other FPOs, USPS has also been providing this information, as well as PREDES information, electronically. However, under these arrangements, the furnishing of this advance information is voluntary and does not cover all mail shipments. Under this rule, the data must be transmitted electronically and in advance in *all* instances, subject to the graduated compliance provided for in the new regulations.[64]

As discussed in section III.C.4 (International Framework for the Provision of AED for Mail Shipments), in the international arena, various efforts are underway to provide for the exchange of AED. The AED referenced in Article 8 (Postal Security) of the Universal Postal Convention is the same type of data that is currently provided through paper forms. The pre-loading data provided pursuant to the WCO SAFE Framework of Standards PLACI regime is comparable to what USPS will be required to provide to CBP under this rule. Thus, the AED requirements in this rule are consistent with existing international programs.

To implement the AED requirements, CBP is adding a new subpart G to 19 CFR part 145, titled Mandatory Advance Electronic Data for Mail Shipments, and making certain conforming revisions to 19 CFR 145.0. Additionally, CBP is revising 19 CFR parts 4, 122, 123, and 149 to clarify that the AED requirements for mail importations are found in part 145.

A. New 19 CFR Part 145, Subpart G

The new subpart G of 19 CFR part 145, titled Mandatory Advance Electronic Data for Mail Shipments, adds three new sections to the regulations. New § 145.73 adds various definitions specific to the subpart. New § 145.74 provides details regarding the mandatory AED that CBP must receive from USPS. New § 145.75 provides the applicable penalties if USPS accepts a shipment in violation of the regulations.

B. Definitions

The new 19 CFR 145.73 provides definitions for terms as they are used in the new subpart G. Specifically, for purposes of this subpart the terms *Designated operator, Express Mail Service* or *EMS, International Mail Facility* or *IMF, Item ID,*[65] *Letter class mail—documents,*[66] *Letter class mail—goods, Parcel post,* and *Universal Postal Union* or *UPU* are defined as set out in the regulatory text below.

C. Mandatory Advance Electronic Data (AED)

1. General Requirements

The new AED regulation, 19 CFR 145.74, provides that pursuant to section 343(a)(3)(K) of the Trade Act of 2002 (Pub. L. 107–210, 19 U.S.C. 1415), as amended, for certain inbound international mail shipments, CBP must electronically receive from USPS within the specified time frames certain mandatory advance electronic data (AED) and updates thereto. Below, we describe the new program, including the types of inbound international mail shipments for which AED is required, the time frames for providing and updating AED, the required AED, the potential exclusion from AED requirements for mail shipments from specific countries, compliance dates, and the expected actions for shipments for which USPS has not complied with the AED requirements.

2. Types of Inbound International Mail Shipments for Which AED Is Required

The new 19 CFR 145.74(b) provides that CBP must electronically receive AED from USPS for inbound international mail shipments containing goods classified as Express Mail Service (EMS), Parcel post, or *Letter class mail—goods,* unless CBP has informed USPS that mail shipments from that specific country or countries are excluded from the AED requirements. AED is not required for *Letter class mail—documents* or for items for the blind consisting of correspondence, literature in whatever format including sound recordings, and equipment or materials of any kind made or adapted to assist blind persons in overcoming the problems of blindness (up to 7 kilograms). Each of these terms is defined in new § 145.73. Under this rule, AED will not be required for items sent as Parcel Post or EMS that do not contain goods. AED will also not be required for returned U.S. origin items, items transiting the U.S. in closed transit, items sent as U.S. domestic mail, or mail treated as domestic, including mail to or from APO, FPO, and DPO addresses, mail to or from U.S. territories and possessions, and mail, from or between the Freely Associated States of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. However, this exclusion does not preclude CBP's existing authority to inspect any of these shipments. The scope of the new requirements is comparable to the scope of the requirements for advance electronic information for non-mail shipments. Advance electronic information for non-mail shipments is not currently required for letters and documents by the regulations promulgated under the Trade Act of 2002, as detailed in the

[62] See footnote 36 for more details.

[63] As noted above in Section III.C.2 (Current CBP Requirements for Mail Shipments to the U.S.) and in footnotes 41 and 42, this ''dispatch level information'' includes information relating to the origin and destination post, dispatch number, date of departure of the transporting conveyance, scheduled international mail facility, total weight of dispatch, and similar information for receptacles contained within the dispatch. This information is provided to USPS via UPU forms CN 31, 32 and 87. In the AED environment, this is referred to as ''PREDES''.

[64] As provided in section 343 (a)(3)(K)(iv) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(iv) and the new regulations, USPS will be required to provide AED on 100% of mail shipments no later than December 31, 2020.

[65] For example, the UPU Technical Standard S10. UPU standards (both technical and messaging) are available for purchase (subscription or individual copy) via the UPU website at *www.upu.int/en/activities/standards/about-standards.html.*

[66] As noted in section III.C.2 (Current CBP Regulatory Requirements for Mail Shipments to the United States), 19 CFR 145.1 provides definitions for *mail article* and *letter class mail.* 19 CFR 145.1(a) defines *mail article* as any posted parcel, packet, package, envelope, letter, aerogramme, box, card, or similar article or container, or any contents thereof, which is transmitted in mail subject to customs examination. 19 CFR 145.1(b) defines *letter class mail* as any mail article, including packages, post cards, and aerogrammes, mailed at the letter rate or equivalent class or category of postage. These definitions will not change as a result of this rulemaking. New 19 CFR 145.73 adds additional definitions relevant to the new AED regulations.

preamble to the Trade Act final rule. *See* 68 FR 68140, 68150 (Dec. 5, 2003).[67]

3. Time Frames for Providing and Updating AED

Under the Trade Act of 2002, as amended by the STOP Act, the time frame for submitting the AED for mail shipments must be as soon as practicable in relation to the transportation of the shipment, consistent with section 343(a)(3)(H) of the Trade Act of 2002. See 19 U.S.C. 1415(a)(3)(H).[68] The new 19 CFR 145.74(c) specifies the time frames for USPS to provide and update the AED. CBP must electronically receive from USPS the AED as soon as practicable, but no later than prior to loading the inbound international mail shipment onto the transporting conveyance. The *as soon as practicable but no later than prior to loading* time frame is the same time frame as in the ACAS regulations. *See* 19 CFR 122.48b(b)(1). Additionally, CBP must electronically receive from USPS updates to the AED, if any of the submitted data changes or more accurate data becomes available after USPS transmits the AED, up until the timeframes for AED updates set forth in the ACAS regulations in 19 CFR 122.48b(b)(2). The requirement to provide and update AED is the same as the current AED requirements for commercial cargo shipments. These time frames are consistent with the PLACI time frame of the SAFE Framework of Standards. In the interest of facilitating the objectives of the STOP Act and these regulations, USPS may continue to submit updates until the mail shipment arrives at the first CBP port of arrival in the United States.

4. Required AED

Under the Trade Act of 2002, as amended by the STOP Act, the required AED for international mail shipments is the information the Secretary determines is reasonably necessary to ensure cargo safety and security that is comparable to what is required for similar non-mail shipments, taking into account the parameters set forth in the Trade Act of 2002. The required AED is listed in the new 19 CFR 145.74(d). The AED that CBP must electronically receive from USPS within the specified time frames is the item attribute information and the pre-advice of despatch information, both described in more detail below. Some of this data is mandatory and other data elements are optional, but encouraged. The provided AED will only be used to the extent consistent with the Trade Act of 2002.

a. Item Attribute Information

The new 19 CFR 145.74(d)(1) sets forth the required AED categorized as item attribute information, that is, information about the attributes or characteristics of mail items and their contents. USPS receives the item attribute or ''ITMATT'' information from the origin post. USPS may then transmit this information to CBP in an electronic message that is the customs declaration equivalent to the paper declaration forms.[69]

The required data elements are listed below. An ''M'' next to any listed data element indicates that the data element is mandatory in all cases and an ''O'' next to the listed data element indicates that the data element is optional, but encouraged if available. The AED elements categorized as item attribute information are:

(1) Sender's Name (M);
(2) Sender's Address (M);
(3) Sender's Telephone/fax/email (O);
(4) Recipient's Name (M);
(5) Recipient's Address (M);
(6) Recipient's Telephone/fax/email (O);
(7) Detailed description of contents (M);
(8) Quantity (M);
(9) Weight (M);
(10) Item ID (M);
(11) Category of Item (gift, documents, sale of goods, commercial sample, merchandise, returned goods, other) (O);
(12) Declared Value (M) *;
(13) Date of Posting (O);
(14) Postal Charges/Fees (O);
(15) 10-digit HS Tariff Number (for commercial items) (O);
(16) Country of Origin of Goods (for commercial items) (O);
(17) Importer's reference (tax code, VAT number, importer number, etc.) (O);
(18) Importer's telephone/fax/email (O);
(19) License Number (O);
(20) Certificate Number (O);
(21) Invoice Number (O);
(22) Details if the goods are subject to quarantine, sanitary/phytosanitary inspection, or other restrictions (O); and
(23) Designated operator (M) *.

As noted previously, this required AED is aligned to the information already required on customs declarations forms that satisfy the requirements of 19 CFR 145.11 and are used by FPOs internationally pursuant to the guidelines set forth by the UPU. This alignment is consistent with the Trade Act of 2002 parameters, specifically 19 U.S.C. 1415(a)(3)(B), which provides that where it is not practicable to require information from the party with direct knowledge of that information, 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. The majority of the mandatory data elements are also in line with the globally recognized PLACI data elements and with requirements for non-mail shipments, particularly the ACAS requirements for air cargo. The two exceptions, Declared Value and Designated Operator,[70] are noted with an asterisk in the list above. CBP is requiring USPS to provide these data elements to CBP because these data elements are globally recognized as mandatory.[71] In the AED environment, USPS can easily provide this data (Declared Value, and Designated Operator) to CBP, and this data, along with the other required data, is valuable for targeting purposes to identify high-risk shipments. Although CBP is only making mandatory the data elements that are currently mandatory on the paper forms, CBP encourages USPS to transmit all available data elements to CBP in order for CBP to better target incoming mail.

b. Pre-Advice of Despatch Information

In addition to the information about each mail item, the required AED also includes information about the

[67] The scope of the AED regulations for inbound international mail shipments is generally consistent with Article 08–002 of the Universal Postal Convention Regulations. *See* Universal Postal Convention Manual: *http://www.upu.int/en/the-upu/acts-of-the-union-and-other-decisions/manuals-in-three-volumes.html* (last accessed: March 16, 2020).

[68] Section 343(a)(3)(H) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(H)) provides that when 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).

[69] As noted earlier, these are the UPU forms CN 22 and CN 23. For more information, see Section III.C.1 (International Mail System for Inbound Mail) and footnotes 36, and Section III.C.2 (Current CBP Requirements for Mail Shipments to the U.S.) and footnote 40.

[70] As defined in new 19 CFR 145.73, ''Designated operator'' means an entity officially designated by a member country of the UPU to operate postal services and fulfill its treaty obligations to the UPU. USPS is considered a designated operator for the United States.

[71] These are the UPU forms CN 22 and CN 23. CBP accepts these forms as satisfactory for the requirements of a customs declaration under 19 CFR 145.11. For more information, see Section III.C.1 (International Mail System for Inbound Mail) and footnotes 36, and Section III.C.2 (Current CBP Requirements for Mail Shipments to the U.S.) and footnote 40.

shipment, referred to as the ''dispatch'' or ''despatch,'' of mail receptacles of the same mail category and class sent from one post to another. As noted above, individual receptacles in one dispatch, may not arrive in the United States together as a unit. Dispatch level information helps CBP to identify where the mail items are likely to be and when they should arrive. This information is comparable to the shipment information CBP requires for non-mail shipments under the Trade Act final rule. However, it is tailored to align with the way mail is shipped (*i.e.,* in dispatches containing receptacles), the way information is provided by the origin post to USPS, and where the mail arrives. USPS receives the ''pre-advice of dispatch'' or ''PREDES'' information from the foreign post. USPS may transmit this information to CBP in an electronic message. The new 19 CFR 145.74(d)(2) lists the required AED categorized as ''pre-advice of despatch information,'' as follows:

(1) Dispatch information including origin post, destination post, and dispatch number;

(2) Scheduled date and time of departure of the transporting conveyance;

(3) Scheduled date and time of arrival in the United States;

(4) Transportation information including carrier and, as applicable, flight number, voyage number, trip number, and/or transportation reference number;

(5) Scheduled International Mail Facility (IMF) in the United States;

(6) Total weight of the dispatch; and

(7) The information for receptacles contained within the dispatch, including receptacle type, receptacle ID, and weight, as well as item ID for items nested to the receptacles, if applicable.

5. Exclusions From AED Requirements for Mail Shipments From Specific Countries

Under the Trade Act of 2002, as amended by the STOP Act, CBP, in consultation with USPS, may determine to exclude a country from the AED requirements if CBP determines that certain specified conditions exist. New 19 CFR 145.74(e) incorporates this provision. It provides that pursuant to section 343(a)(3)(K)(vi) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(vi)), CBP, in consultation with USPS, may determine that a specific country or countries do not have the capacity to collect and transmit AED, represent a low risk for mail shipments that violate relevant U.S. laws and regulations, and account for low volumes of mail shipments that can be effectively screened for compliance with relevant U.S. laws and regulations through an alternate means. It further provides that in such case(s), CBP will notify USPS that mail shipments from that specific country or countries are excluded from the AED requirements. Section 145.75(e) also provides that CBP will re-evaluate these determinations on an annual basis. This provision aligns not only with new section 343(a)(3)(K)(vi) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(vi)), but also with the parameters set forth at section 343(a)(3)(E) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(E)), which requires regulations to take into account the extent to which the technology necessary for parties to transmit data is available.

6. Compliance Dates

The Trade Act of 2002, as amended by the STOP Act, specifies that USPS must fully comply with the AED requirements no later than December 31, 2020, but allows for the implementation of the AED requirement in phases prior to that date. Pursuant to the statute, CBP may set incremental targets for the transmission of AED prior to December 31, 2020 that take into consideration the risk posed by such shipments, the volume of mail shipped to the United States by or through a particular country, and the capacities of foreign postal operators to provide that information to USPS. *See* section 343(a)(3)(K)(iv) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(iv)).

New 19 CFR 145.74(f) provides that full compliance is required no later than December 31, 2020, as set forth in section 343(a)(3)(K)(vi) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(vi)). This means that, except for mail shipments from countries that are excluded from AED requirements pursuant to new 19 CFR 145.74(e), USPS must comply with the AED requirements of this section for 100 percent of mail shipments described in new 19 CFR 145.74(b) no later than December 31, 2020.

7. Shipments for Which USPS Has Not Complied With the AED Requirements

The Trade Act of 2002, as amended by the STOP Act, sets forth the actions to be taken for shipments for which USPS has not complied with the AED requirements. New 19 CFR 145.74(g) incorporates these provisions. Under new 19 CFR 145.74(g)(1), pursuant to section 343(a)(3)(K)(vii) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(vii)), USPS must, in consultation with CBP, refuse any shipments received after December 31, 2020, for which the required AED is not received by CBP, unless remedial action is warranted in lieu of refusal of a shipment. If remedial action is warranted, CBP and USPS will determine the appropriate remedial action. Remedial action may include, but is not limited to, destruction, seizure, controlled delivery or other law enforcement initiatives, or a correction of the failure to provide the AED. Pursuant to an amendment to the Trade Act of 2002 that was included in Sec. 802, Consolidated Appropriations Act, 2021, Pub. L. 116–260, new 19 CFR 145.74(g)(2) provides that, notwithstanding paragraph (g)(1) of the section, during the period beginning on January 1, 2021, through March 15, 2021, the Postmaster General may accept a shipment without transmission of the information described in paragraph (d) of the section if the Commissioner determines, or concurs with the determination of the Postmaster General, that the shipment presents a low risk of violating any relevant United States statutes or regulations, including statutes or regulations relating to the importation of controlled substances such as fentanyl and other synthetic opioids.

D. Penalties

Section 8007 of the STOP Act amends section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) to add a new paragraph (e), which mandates the imposition of civil penalties for certain violations of the STOP Act. Specifically, new 19 U.S.C. 1436(e)(1) provides that a civil penalty ''shall be imposed against the United States Postal Service if the Postal Service accepts a shipment in violation of section 1415(a)(3)(K)(vii)(I) of this title.'' To implement this statutory provision, CBP is adding a new 19 CFR 145.75. This new section provides that a violation of the new 19 CFR 145.74(g) after December 31, 2020, will result in the USPS being liable for penalties in accordance with 19 U.S.C. 1436(e)(1). The amount of the penalty will be $5,000 per violation, however, as provided by 19 U.S.C. 1436(e)(2), the penalty will be reduced or dismissed based on certain factors.

E. Amendment to 19 CFR 145.0

Current 19 CFR 145.0 specifies the scope of 19 CFR part 145. CBP is expanding the scope to account for the addition of the new subpart G. Accordingly, a new sentence stating that the part also contains regulations requiring USPS to transmit certain AED to CBP for certain inbound international mail shipments is added at the end of the section.

F. Amendment to Other Parts of 19 CFR Chapter I

The AED requirements in 19 CFR 145.74 applicable to inbound international mail shipments are intended to be the only AED requirements applicable to USPS for inbound international mail shipments. Accordingly, CBP is making revisions to 19 CFR parts 4, 122, 123, and 149 to clarify that the AED requirements for mail importations are found in part 145.

G. Flexible Enforcement

In order to provide the USPS sufficient time to adjust to the new requirements and in consideration of the business process changes that may be necessary to achieve full compliance, CBP will show restraint in enforcing the data submission requirements of the rule, taking into account difficulties USPS may face in complying with the rule, so long as USPS is making significant progress toward compliance and is making a good faith effort to comply with the rule to the extent of its current ability. This CBP policy will last for twelve months after the effective date. While full enforcement will be phased in over this twelve month period, willful and egregious violations will be subject to enforcement actions at all times. CBP welcomes comments on this enforcement policy.

V. Statutory and Regulatory Reviews

A. Adminstrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** and to provide interested persons the opportunity to submit comments. 5 U.S.C. 553(b), (c). The APA also generally requires agencies to delay the effective date of substantive rules by no less than 30 days. 5 U.S.C. 553(d). However, the APA enumerates certain exceptions to these requirements. 5 U.S.C. 553(b)(A), (B). The APA provides an exception from notice and comment procedures ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). The APA also provides an exception from the 30-day delayed effective date requirement ''as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). These exceptions to notice-and-comment procedures are to be ''narrowly construed'' and only ''reluctantly countenanced.'' *New Jersey* v. *EPA,* 626 F.2d 1038, 1045 (D.C. Cir. 1980). Courts have found ''good cause'' to be a permissible exception where ''the delay created by the notice and comment requirements would result in serious damage to important interests.'' *Woods Psychiatric Inst.* v. *United States,* 20 Cl. Ct. T324, 333 (1990), *aff'd,* 925 F.2d 1454 (Fed. Cir. 1991) (absence of relevant comprehensive regulations had led to administrative difficulties and litigation regarding basic issues such as eligibility, scope and reasonable charges for benefits and delay would have caused medical and financial hardships for beneficiaries); *see also Nat'l Fed'n of Fed. Emps.* v. *Nat'l Treasury Emps. Union,* 671 F.2d 607, 611 (D.C. Cir. 1982) (lacking information on insurance contract terms due to circumstances beyond its control, the agency elected to delay ''open season'' because failure to do so would threaten the financial stability of the Federal employee health benefit program constituting a threat to the welfare of employees and annuitants enrolled in that program). These interests include public safety and public health. *United States* v. *Dean,* 604 F.3d 1275, 1279 (11th Cir. 2010) (to delay regulations would harm the public interest because it would delay the registration of sex offenders who would evade registration requirements during the notice and comment period, putting the public's safety at risk).

This rule is being promulgated pursuant to the STOP Act to fight the influx of deadly opioids, particularly synthetic opioids such as fentanyl, coming to the United States in international mail shipments. Given the critical public health and safety implications of continued shipments of illegal opioids into the United States, to delay the implementation of this rule would be ''impracticable, unnecessary, and contrary to the public interest'' as it would allow a gap that invites illegal and toxic drugs into our communities. There is particular urgency in view of recent and current events, connected with the COVID–19 pandemic and a significant spike in deaths as a result of opioids. On January 7, 2021, the Secretary of Health and Human Services renewed public health emergency declarations for both the opioid crisis [72] and COVID–19 pandemic.[73] Additionally, and critically, CDC has reported an accelerating rate of overdose deaths during the COVID pandemic, with the highest number of such deaths ever recorded in a 12-month period.[74] The CDC has found ''an acceleration of overdose deaths during the pandemic.'' This is a testament to the imminent risk of having these types of goods enter the U.S. mail stream and thus endanger public health. In view of the recent declarations and the recent acceleration in overdose deaths, a delay would clearly be ''contrary to the public interest.''

The recent and marked increase in demand for opioids by Americans has had a detrimental impact on this country as seen by the sharp rise in overdoses and the increased strain placed on law enforcement, healthcare, and social service providers. According to the CDC, the COVID–19 pandemic has accelerated drug overdose deaths, resulting in over 81,000 drug overdose deaths in the 12-month period ending in May 2020. CDC notes that ''synthetic opioids (primarily illicitly manufactured fentanyl) appear to be the driver,'' increasing 38.4 percent relative to the prior year. Ten western states reported a more than 98 percent increase in synthetic opioid-involved deaths over the same period.[75] CBP is a vital line of defense to secure the border, and needs to move toward improving its ability to detect and interdict illicit supply chains in the postal environment.

One of the greatest challenges to effective interdiction is the sheer volume of mail received. The use of AED for mail shipments will thus facilitate the interdiction of suspect packages, a critical tool in stemming the flow of deadly opioids. Requiring AED for mail shipments will enhance the security of the supply chain with respect to international mail shipments by giving CBP adequate time and information necessary to perform targeted risk assessments geared towards interdicting dangerous and illicit items before they enter the U.S. mail system. For further details

[72] *https://www.phe.gov/emergency/news/healthactions/phe/Pages/opioids-7Jan2021.aspx.*

[73] *https://www.phe.gov/emergency/news/healthactions/phe/Pages/covid19-07Jan2021.aspx; see also* White House, Notice on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) Pandemic, February 24, 2021. Available at *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/* (last accessed February 24, 2021).

[74] Centers for Disease Control, Press Release, *Overdose Deaths Accelerated During COVID–19: Expanded Prevention Efforts Needed,* December 17, 2020, available at *https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html* (last accessed February 20, 2021).

[75] Centers for Disease Control, Press Release, *Overdose Deaths Accelerated During COVID–19: Expanded Prevention Efforts Needed,* December 17, 2020, available at *https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html* (last accessed February 20, 2021).

regarding the benefits of the rule, see sections III.A (Purpose of Rule), V.B (Executive Orders 12866 and 13563), and the stand-alone regulatory impact analysis.[76]

Where an agency reasonably determines that existing regulations do not sufficiently protect public safety, authorized measures to address the regulatory deficiency need not await the completion of notice and comment procedures to begin saving lives. *See Hawaii Helicopter Operators Ass'n* v. *FAA,* 51 F.3d 212, 213–14 (9th Cir. 1995). This is especially true with respect to measures taken to prevent the exploitation of security or public health vulnerabilities, which do not involve ''complex and controversial questions of ethics and public policy.'' *Cf. American Academy of Pediatrics* v. *Heckler,* 561 F. Supp. 395, 401 (D.D.C. 1983). This is the case here. It is DHS's determination that the relevant existing regulatory framework does not sufficiently protect public safety, and in the context of a public health crisis of this magnitude every day is important. In fact, no regulations exist at this time that require USPS to provide CBP with AED. These regulations, promulgated pursuant to the STOP Act, aim to address this regulatory deficiency, and as such, they need not await the completion of notice and comment procedures or the 30-day delayed effective date period. *See Hawaii Helicopter Operators Ass'n* v. *FAA,* 51 F.3d 212, 213–14 (9th Cir. 1995). In filling the regulatory gap, this rule will have a substantial impact on stemming the flow of illicit drugs. As detailed above, the use of AED in targeting and risk mitigation will help CBP disrupt the supply chain of illicit opioids by reducing the amount of illicit opioids entering the country. This, in turn, should lead to a decrease in lives lost to this epidemic.

For the same reasons that the new regulations will address the regulatory gap described above, delaying the implementation of these regulations could result in serious harm to public health and safety by continuing to allow the illicit flow of opioids into the country while the procedural periods elapse. The agency ''only has to show that there is good cause to believe that delay would do real harm.'' *United States* v. *Dean,* 604 F.3d 1275, 1281 (11th Cir. 2010) (quoting *Jifry* v. *FAA,* 370 F.3d 1174, 1179 (D.C. Cir. 2004)). This is especially the case in the context of vulnerabilities that may be susceptible to exploitation, including in the context of an escalating public health crisis of this magnitude or in the case of a significant public safety concern. It is therefore sufficient for the agency to make a reasonable determination that a vulnerability exists that the proposed lawful rule would effectively mitigate and for that reason determine that a delay in promulgation would cause serious and immediate harm. *See Jifry,* 370 F.3d at 1179; *Dean,* 604 F.3d at 1281. In the absence of prior regulations that mandate USPS to transmit AED to CBP, the use of notice and comment prior to the issuance of this rule would delay CBP's ability to take immediate and effective action to keep illicit shipments of all kinds out of the supply chain.

Such a delay might well lead as well to an influx of illicit shipments before the rule was issued and took effect. To delay the implementation of effective mitigation measures in this way would unreasonably prolong the public's exposure to high levels of illicit opioids and their analogues. On that basis, it is reasonable for DHS to determine that it may, for good cause, forgo the usual prior notice and comment and delayed effective date procedure and publish a rule that is effective immediately.

B. Executive Orders 12866 and 13563

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is a ''significant regulatory action,'' and one that the Office of Information and Regulatory Affairs has determined is economically significant under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the Office of Management and Budget (''OMB''). CBP prepared an economic analysis of the estimated impacts of this rule for public awareness, which CBP summarizes below. The complete analysis, entitled ''Regulatory Impact Analysis: Mandatory Advance Electronic Data (AED) for International Postal Shipment Final Rule'' can be found in the public docket for this rulemaking (docket number USCBP–2021–0009) at *www.regulations.gov.* The complete economic impact analysis of this rule is intended to address the requirements of Executive Order 12866 (1993), ''Regulatory Planning and Review'' and related executive orders and laws, which require Federal agencies to assess the costs and benefits of significant regulatory actions.

1. Purpose of Rule

CBP has developed this interim final rule requiring the submission of advance electronic data (AED) from the United States Postal Service (USPS) for inbound international mail shipments containing goods destined for the United States. This interim final rule follows from the requirements mandated in section 8003 of the Synthetics Trafficking and Overdose Prevention (STOP) Act of 2018, principally intended to lessen the flow of illegal opioids into the United States. The STOP Act imposes new responsibilities on the USPS for providing AED for international mail.

AED contains details about the package's sender, recipient, and related content that have historically been available to USPS on customs declaration forms but only in paper copies, making it difficult for CBP to use the information for targeting of mail containing illegal goods. Requiring USPS to provide CBP with AED will address a current safety and security gap regarding mail importations. Having this data available in electronic format and submitted to CBP before the package is loaded on the transporting carrier is expected to improve the success and efficiency of targeting packages for inspection and to disrupt the supply chain for illegal opioids, particularly synthetic fentanyl.[77] Fentanyl is one of many synthetic opioids that are produced in both licit and illicit manners. Many chemical compounds—commonly known as fentanyl analogs—share the majority of their chemical structure with fentanyl, albeit with some molecular modifications. In this report, we refer to this class of substances as fentanyl for simplicity and to reflect its share among synthetic opioids. While synthetic fentanyl is the primary motivation behind the STOP Act, the interim final rule will also

[76] CBP prepared a regulatory impact analysis of the estimated impacts of this rule for public awareness, which CBP summarizes in the sections below. The complete analysis, entitled Mandatory Advance Electronic Information for Postal Shipments, can be found in the public docket for this rulemaking (docket number USCBP–2021–0009) at *www.regulations.gov.*

[77] U.S. Drug Enforcement Administration, *National Forensic Laboratory Information System: Special Maps Release: Tracking Fentanyl and Fentanyl-Related Substances Reported in NFLIS-Drug by State, 2016–2017,* Washington, DC: Department of Justice (2019) (''DEA, *Tracking Fentanyl and Fentanyl-Related Substances*'').

improve CBP's ability to identify and seize other illegal and dangerous items (including other illegal drugs, other hazardous materials, etc.) and close the gap that has the potential to be exploited by bad actors. With the implementation of this interim final rule, CBP regulations will require the transmission of AED on all shipments of goods, whether or not they are transported through the international mail system.

Beginning in 2014, CBP and USPS piloted programs at IMFs around the United States to collect AED from foreign posts (*i.e.,* non-U.S. postal operators, analogous to the USPS in the United States) to improve CBP's targeting efforts. As required by the STOP Act and informed by the results of the pilots,[78] CBP has developed an interim final rule to transition the AED pilot program to a regulatory program.[79]

The interim final rule requires that CBP must receive AED from USPS for inbound international mail containing goods classified as *Letter class mail—goods,* Parcel post, or Express Mail Service (EMS). *Letter class mail—goods* refers to letter class (in UPU terms, letter post) mail up to two kilograms containing goods, also referred to as ''small packets.'' Mail over two kilograms containing goods must use a postal service other than letter class. Parcel post refers to any mail article mailed at the parcel rate or equivalent class or category of postage. EMS refers to the optional supplementary postal express service for documents and merchandise and is whenever possible the quickest postal service by physical means. Under this interim final rule, AED is not required for mail containing only letters and documents (*i.e., Letter class mail—documents*). AED will not be required for items for the blind consisting of correspondence, literature in whatever format including sound recordings, and equipment or materials of any kind made or adapted to assist blind persons in overcoming the problems of blindness (up to 7 kilograms). Under this rule, AED will not be required for items sent as Parcel Post or EMS that do not contain goods. AED will also not be required for returned U.S. origin items, items transiting the U.S. in closed transit, items sent as U.S. domestic mail, or mail treated as domestic, including mail to or from APO, FPO, and DPO addresses, mail to or from U.S. territories and possessions, and mail, from or between the Freely Associated States of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. However, this exclusion does not preclude CBP's existing authority to inspect any of these shipments.

AED are comprised of two elements, as described in full detail in Exhibit 1 and summarized below:

1. Information already collected through the customs declaration forms CN 22 and CN 23, including the contents and value of the goods in the package as well as sender and recipient information. USPS will collect this information from its counterparts at foreign posts through existing ''ITMATT'' electronic messages; and

2. Information about the movement of the shipment by a carrier, including the scheduled date and time of arrival in the United States, flight number, and destination IMF. USPS will collect this information from its counterparts at foreign posts through existing ''PREDES'' electronic messages.

EXHIBIT 1—MANDATORY AND OPTIONAL AED ELEMENTS

Data element	Requirement
ITMATT Contents:	
Sender's name	Mandatory.
Sender's address	Mandatory.
Sender's telephone/fax/email	Optional.
Recipient's name	Mandatory.
Recipient's address	Mandatory.
Recipient's telephone/fax/email	Optional.
Detailed description of contents	Mandatory.
Quantity	Mandatory.
Weight	Mandatory.
Item ID	Mandatory.
Category of item (gift, document, sale of goods, commercial sample, merchandise, returned goods, other)	Optional.
Declared value	Mandatory.
Date of posting	Optional.
Postal charges/fees	Optional.
10-digit HS tariff number (for commercial items)	Optional.
Country of origin of goods (for commercial items)	Optional.
Importer's reference (tax code, VAT number, importer number, etc.)	Optional.
Importer's telephone/fax/email	Optional.
License number	Optional.
Certificate number	Optional.
Invoice number	Optional.
Details if the goods are subject to quarantine, sanitary/phytosanitary inspection, or other restrictions	Optional.
Designated operator	Mandatory.
PREDES Contents:	
Dispatch information including origin, destination, and dispatch number	Mandatory.
Scheduled date and time of departure of transporting conveyance	Mandatory.
Scheduled date and time of arrival	Mandatory.
Transportation information including carrier and, as applicable, flight number, voyage number, trip number, and/or transportation reference number.	Mandatory.

[78] U.S. Customs and Border Protection. *International Mail Security: Advance Electronic Data (AED) Cost Benefit Analysis of Inbound International Mail at JFK* (DHS/CBP/OT/ORR/EIA Branch 2018) (''CBP, *International Mail Security*'').

[79] CBP prepared its assessment (CBP, *International Mail Security*) of the costs and benefits of implementing the JFK IMF pilot in 2017 in response to a recommendation from the Government Accountability Office (GAO). U.S. Government Accountability Office, *International Mail Security: Costs and Benefits of Using Electronic Data to Screen Mail Need to be Assessed, Report to Congressional Requesters.* GAO–17–606. (2017, p. 1) (GAO, *International Mail Security, Report to Congressional Requesters*).

EXHIBIT 1—MANDATORY AND OPTIONAL AED ELEMENTS—Continued

Data element	Requirement
Scheduled International Mail Facility (IMF)	Mandatory.
Total weight of the dispatch	Mandatory.
The information for receptacles contained within the dispatch, including receptacle type, receptacle ID, and weight, as well as item ID for items nested to the receptacles if applicable.	Mandatory.

Recognizing the magnitude of the change in operations necessary to accommodate the international flow of AED, the STOP Act and this interim final rule offer a phased approach to the mandatory AED requirement. No later than the end of 2018, the Act required USPS to transmit AED to CBP on no less than 70 percent of mail shipments, including 100 percent of mail from China.[80] No later than the end of 2020, USPS must transmit AED for 100 percent of mail. Beginning in March 2021, USPS will be required to refuse mail shipments that do not include AED, unless a ''remedial action'' is identified. Such action may include destruction, seizure, controlled delivery, other law enforcement action for mail without AED, or correction of the failure to provide AED. The interim final rule allows that CBP and USPS create country-specific exceptions for countries with low mail volume, that are considered low-risk, or lack the capacity to collect and transmit AED.

2. Overview of Analysis

In the complete economic impact analysis of this rule, we estimate the incremental costs of implementing (1) AED pilot projects initiated prior to the STOP Act and (2) the interim final rule. We also provide a discussion of the anticipated benefits of the rule qualitatively. We present information on the available data sources we rely upon and the analytic methodologies we employ and discuss the implications of limitations of the analysis.

Our analysis focuses on two discrete time periods. All incremental costs and benefits of collecting and transmitting AED occurring in the time period before the STOP Act was enacted into law are associated with the pre-statute period, while all incremental costs and benefits incurred after the STOP Act was enacted (*i.e.,* post-statute period), including current and future costs, are attributed to the interim final rule. Taken together, the two time periods address the costs and benefits of the entire AED program.

Pre-statute period: 2013 through 2018; and

Post-statute period: 2019 through 2028.

All costs are estimated in 2019 dollars, and present value calculations reported in the document use a base year of 2019.[81] CBP summarizes the results of the rule's complete economic impact analysis below.

Between 2014 and 2018, USPS worked with foreign postal operators to collect available AED for CBP targeting of postal shipments across a subset of IMFs. CBP's use of the AED, which is voluntarily provided by foreign postal operators to USPS, is considered a pilot program to determine how AED can improve CBP's targeting process. John F. Kennedy International Airport (JFK) was the first IMF to launch a pilot in 2014, followed by Los Angeles International Airport (LAX) and Miami International Airport (MIA) in 2017, Chicago O'Hare International Airport (ORD) and San Francisco International Airport (SFO) in 2018, and the New Jersey International and Bulk Mail facility located in Jersey City, New Jersey (JEC) and the Daniel K. Inouye International Airport (Honolulu International Airport) (HNL) in 2019. These pilots have provided insight into how the interim final rule will be implemented. Two more IMFs—Cyril E. King Airport (St. Thomas Airport) (STT), and Luis Munoz Marin International Airport (San Juan Airport) (SJU)—are expected to commence AED operations in 2020.

Furthermore, separate from the STOP Act, a desire to receive AED has been gaining traction among other countries. Motivated by the collection of goods and services (GST) tax on imported goods, the European Union (EU) and Australia recently passed or are considering legislation that would also require AED for inbound international mail. Several other countries are also likely to impose AED requirements, including but not limited to China, Russia, Malaysia, Brazil, and Thailand.[82] Beyond individual country initiatives, the UPU approved a roadmap in 2016 for working toward universal AED capabilities among its members.[83]

In consideration of the AED requirements passed by other countries, as well as the general move towards storing information electronically, foreign posts would need to make upgrades to their systems to accommodate AED in the absence of the STOP Act and this interim final rule. Nonetheless, the STOP Act plays a key role in accelerating the adoption of AED internationally.[84] Exhibit 2, below, illustrates our assumptions regarding this acceleration, differences between the types of actions taken, and the timing of these actions under the baseline and regulatory scenarios. The differences between these two scenarios represent the incremental effects measured in the analysis.

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[80] These milestones were not met. Approximately 60 percent of international packages were transported with AED by the of end 2018 (personal communication with CBP on May 1, 2019). USPS data from March 2019, after the end-2018 requirement, reports 77 percent of all packages were transported with AED—over the current requirement threshold, but below the 100 percent.

[81] Figures in the exhibits are generally unrounded to provide the detail necessary to recreate these calculations.

[82] Personal communication with UPU on May 1, 2019 and follow up information provided via personal communication on May 10, 2019.

[83] Universal Postal Union (UPU). (2017). ''Issues relating to electronic advance data (EAD).'' Report of AED Roadmap steering committee. Document number POC C 1 2017.2–Doc 6b.

[84] Personal communication with representatives of the UPU on May 1, 2019.

Exhibit 2. Affected Populations under Baseline Environment (World without STOP Act) Compared to World with Pre-Statute and Post-Statute Actions

YEAR	BASELINE ENVIRONMENT (NO AED PILOT OR STOP ACT)		WORLD WITH THE AED PILOT AND THE STOP ACT		
	REQUIREMENT	ACTION TAKEN	REQUIREMENT	ACTION TAKEN	
2013	None	None	None	CBP & USPS incur costs to establish systems to receive inbound AED from foreign posts	PRE-STATUTE ANALYSIS PERIOD
				France incurs upfront costs	
2014			JFK Pilot begins	France begins transmitting AED for U.S.-bound parcels	
				Additional select countries incur upfront costs	
2015			JFK Pilot continues	Number of countries transmitting AED to the United States and the amount of data transmitted increases each year	
2016					
2017			LAX and MIA Pilots begin		
2018			ORD and SFO Pilots begin		
			STOP Act enacted October 24th. By December 31st, receive AED for 70% of relevant mail, including 100% of relevant mail from China		
2019	None	None	Continued implementation of the initial STOP Act requirements	Additional IMFs (JEC and HNL) begin receiving AED	POST-STATUTE ANALYSIS PERIOD
				New countries incur upfront costs and begin transmitting data	
2020		Countries incur upfront costs to establish systems for transmitting AED	By December 31st, receive AED for 100% of relevant mail from all countries	Final IMFs begin receiving AED	
2021	By January 1st, provide European Union countries with AED for relevant mail from all countries	Countries incur recurring costs to transmit AED pursuant to	Continued implementation of the STOP Act	Most countries transmitting AED for 100% of U.S.-bound mail[b]	
2022					

2023	Continued implementation of European Union country-requirements and similar requirements established in additional countries	non-U.S. requirements; no AED transmitted for U.S.-bound mail[a]			
2024					
2025					
2026					
2027					
2028					

Notes:
a. In the absence of the STOP Act, it is possible USPS would request reciprocity with the countries to which it provides AED for outbound mail. However, we do not know which countries would be included in such agreements. Thus, the assumption that USPS would not receive any AED for inbound mail likely overstates the incremental costs of the interim final rule to foreign countries.
b. According to the UPU, some countries are unlikely to achieve compliance with the STOP Act requirements. These countries represent approximately a small percentage of mail coming into the United States. For the purpose of this analysis, we assume CBP will exclude these countries from the mandatory AED requirements per STOP Act section 8003 allowances. (Information provided by UPU provided to IEc via personal communication with CBP on May 10, 2019.)

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3. Population Affected by Rule

CBP and USPS are the two U.S.-based actors that incur costs in response to the AED pilots and the requirements of the interim final rule. All activities related to the collection, transmission, and use of inbound AED are incremental to the rule. We summarize these cost categories below.

4. Costs of Rule

CBP incurs costs to draft and negotiate agreements with USPS, implement software upgrades to accommodate AED, train staff on the use of AED for targeting, and analyze inbound AED at IMFs. Among the categories of cost we are able to quantify, costs associated with analyzing AED data and placing holds associated with the AED are the largest, followed by the costs to upgrade software and, lastly, by the time spent developing the MOU and SOPs with USPS. CBP also incurred costs to train its staff to use AED; we are unable to quantify these costs.

Exhibit 3 presents costs incurred by CBP to implement the pilot program in the pre-statute period (2013 through 2018). Specifically, its total present value cost over the 6-year period ranges from $19 million to $22 million, depending on the discount rate assumption (3 and 7 percent, respectively). Because we are unable to quantify CBP's training costs, this estimate may understate total costs incurred by the agency during the pre-statute period. However, these costs are unlikely to be large enough to significantly impact our estimate of the total cost of the regulation. Importantly, these costs have already been incurred.

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Exhibit 3. Total Present Value Costs to CBP in Pre-Statute Years (2019 U.S. Dollars, 2019 Base Year)

YEAR	DEVELOP MOU AND SOPS WITH USPS	UPGRADE SOFTWARE	TRAIN STAFF	ANALYZE AED DATA	TOTAL
2013	$0	$2,191,338	Qualitative	$0	$2,191,338
2014	$548	$641,732		$2,001,441	$2,643,722
2015	$0	$641,732		$2,001,441	$2,643,173
2016	$0	$641,732		$2,001,441	$2,643,173
2017	$6,397	$641,732		$2,535,159	$3,183,288
2018	$3,381	$641,732		$3,286,750	$3,931,864
Total undiscounted	$10,327	$5,400,000		$11,826,232	$17,236,559
Total present value (3 percent)	**$10,905**	**$6,125,828**		**$12,834,789**	**$18,971,522**
Total present value (7 percent)	**$11,711**	**$7,237,374**		**$14,301,782**	**$21,550,867**
Source: IEc calculations using data from various sources. See main text for details.					

Exhibit 4 provides estimates of the costs incurred by CBP in the post-statute period (2019 through 2028). We estimate the total present value of these costs will range from $41 million to $49 million, assuming discount rates of 7 and 3 percent, respectively. The majority of these costs are likely to be incurred in the future.[85]

[85] Importantly, the estimates presented in Exhibit 4 include future costs that will be incurred by the five IMFs who participated in the pilot program.

Exhibit 4. Total Present Value Costs to CBP in Post-Statute Years (2019 U.S. Dollars, 2019 Base Year)

YEAR	DEVELOP MOU AND SOPS WITH USPS	UPGRADE SOFTWARE	TRAIN STAFF	ANALYZE AED DATA	TOTAL
2019	$2,361	$641,732	Qualitative	$3,420,179	$4,064,273
2020	$3,625	$641,732		$5,073,452	$5,718,809
2021	$0	$641,732		$5,073,452	$5,715,184
2022	$0	$641,732		$5,073,452	$5,715,184
2023	$0	$641,732		$5,073,452	$5,715,184
2024	$0	$641,732		$5,073,452	$5,715,184
2025	$0	$641,732		$5,073,452	$5,715,184
2026	$0	$641,732		$5,073,452	$5,715,184
2027	$0	$641,732		$5,073,452	$5,715,184
2028	$0	$641,732		$5,073,452	$5,715,184
Total undiscounted	$5,986	$6,417,324		$49,081,245	$55,504,555
Total present value (3 percent)	**$5,880**	**$5,638,330**		**$42,922,627**	**$48,566,838**
Total present value (7 percent)	**$5,749**	**$4,822,768**		**$36,474,896**	**$41,303,412**
Source: IEc calculations using data from various sources. See main text for details.					

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USPS also incurs costs to implement the new requirements. Specifically, it must negotiate operational agreements with CBP at the IMFs, negotiate data-sharing agreements with foreign posts, upgrade software, train staff, process AED holds for CBP, and potentially return mail to foreign posts that do not meet the mandatory AED requirement. In this analysis, we quantify three of the six categories of costs likely to be incurred by USPS. Among them the labor devoted to processing holds for CBP constitutes a larger share than costs of upgrading and maintaining software or the requirement to return mail. Moreover, between the two periods examined, a majority of these costs are incurred in the post-statute period. CBP does not expect USPS to need to return mail without AED and this will not experience costs associated with that return. To the extent that these costs do take place, the costs of this rule will be higher. CBP requests comment on the size of these costs.

Exhibit 5 presents the costs incurred by USPS in the pre-statute period (2013 through 2018). The total present value of these past costs is likely to range from $11 million to $13 million, assuming discount rates of 3 and 7 percent, respectively. Because we are unable to estimate the costs to USPS of developing MOUs and SOPs with CBP, negotiating data sharing agreements with foreign posts, and training its staff, these estimates may understate the actual costs incurred during this period.

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Exhibit 5. Total Present Value Costs to USPS in Pre-Statute Years (2019 U.S. Dollars, 2019 Base Year)

YEAR	DEVELOP MOU AND SOPS WITH CBP	NEGOTIATE AED SHARING AGREEMENTS WITH FOREIGN POSTS	UPGRADE SOFTWARE	TRAIN STAFF	PROCESS AED HOLDS FOR CBP	REJECT PACKAGES WITHOUT AED	TOTAL
2013	Qualitative	Qualitative	$675,000	Qualitative	$0	$0	$675,000
2014			$675,000		$626,726	$0	$1,301,726
2015			$675,000		$626,726	$0	$1,301,726
2016			$675,000		$626,726	$0	$1,301,726
2017			$675,000		$1,722,583	$0	$2,397,583
2018			$675,000		$2,818,439	$0	$3,493,439
Total undiscounted			$4,050,000		$6,421,201	$0	$10,471,201
Total present value (3 percent)			**$4,497,162**		**$6,847,255**	**$0**	**$11,344,417**
Total present value (7 percent)			**$5,166,464**		**$7,456,208**	**$0**	**$12,622,672**

Source: IEc calculations using data from various sources. See main text for details.

Exhibit 6 presents the future costs likely to be incurred by USPS in the post-statute period. Specifically, total present value costs are likely to range from $41 million to $49 million, assuming discount rates of 7 and 3 percent, respectively. Similar to the pre-statute period, because we are unable to quantify certain categories of costs incurred by USPS, these estimates may understate the total costs experienced by the organization.

Exhibit 6. Total Present Value Costs to USPS in Post-Statute Years (2019 U.S. Dollars, 2019 Base Year)

YEAR	DEVELOP MOU AND SOPS WITH CBP	NEGOTIATE AED SHARING AGREEMENTS WITH FOREIGN POSTS	UPGRADE SOFTWARE	TRAIN STAFF	PROCESS AED HOLDS FOR CBP	REJECT PACKAGES WITHOUT AED	TOTAL
2019	Qualitative	Qualitative	$675,000	Qualitative	$3,914,295	Qualitative	$4,589,295
2020			$675,000		$5,010,151		$5,685,151
2021			$675,000		$5,010,151		$5,685,151
2022			$675,000		$5,010,151		$5,685,151
2023			$675,000		$5,010,151		$5,685,151
2024			$675,000		$5,010,151		$5,685,151
2025			$675,000		$5,010,151		$5,685,151
2026			$675,000		$5,010,151		$5,685,151
2027			$675,000		$5,010,151		$5,685,151
2028			$675,000		$5,010,151		$5,685,151
Total undiscounted			$6,750,000		$49,005,657		$55,755,657
Total present value (3 percent)			**$5,930,624**		**$42,923,879**		**$48,854,503**
Total present value (7 percent)			**$5,072,782**		**$36,556,595**		**$41,629,376**

Source: IEc calculations using data from various sources. See main text for details.

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Foreign posts around the world incur costs to upgrade and maintain outbound AED systems in order to comply with the requirements of the STOP Act. The STOP Act, however, is not the only international AED requirement. As described earlier, it represents the first in a series of similar requirements under development by other countries and encouraged by the UPU. As a result, the costs foreign posts incur to update their systems to accommodate the outbound flow of AED are not fully attributable to the pilot or the interim final rule; foreign posts would be making many of these upgrades to their systems in the absence of the STOP Act. The law, however, accelerates their timeline for having functional AED systems and capabilities in place.

In general, we consider when countries incur costs due to the interim final rule relative to when they would incur similar costs to comply with other mandatory AED requirements imposed by other countries. In particular, the European Union AED rule is scheduled to take effect in early 2021. The incremental cost of the pilot or interim final rule, therefore, is the opportunity cost to foreign posts of upgrading their systems earlier than they would have in the absence of the STOP Act.

To estimate the opportunity cost of earlier action, we estimate the stream of costs through time under the baseline scenario (*i.e.,* the world without the pilot or the interim final rule) and compare it to a scenario with the pilot and the interim final rule, separately for the pre-statute period and the post-statute period. The difference between the present value of these two cost streams represents the incremental costs of the pilot and the interim final rule.

Significant uncertainty exists regarding when certain countries will be able to meet the requirements of the interim final rule. We rely on analysis provided by the UPU to estimate which countries will be able to send AED to the United States by December 31, 2020. For the purposes of this analysis, we assume that all countries unable to send AED to the United States by the end of 2020 will be granted exceptions under

the interim final rule and will, therefore, not incur costs. In the absence of data to predict which countries will be able to begin transmitting AED between 2021 and 2028, we assume the number of countries transmitting AED in years 2021 through 2028 does not change. To the extent that more countries shift to AED submissions, costs will be higher and will depend on the income level of the country and its volume of mail. This analysis contains the necessary information on the costs per country and by volume, so extending this analysis to further countries can be done using the information in this analysis. Exhibit 7 describes the number of countries transmitting AED to the United States, as well as the percent of packages from these countries arriving with AED elements.

EXHIBIT 7—FOREIGN POSTAL OPERATORS TRANSMITTING AED TO USPS AND PERCENT OF PARCELS ARRIVING WITH AED

Year	High Income Countries		Upper-Middle Income Countries		Lower-Middle Income Countries		Low Income Countries		Other Countries
	#	% AED	#	% AED	#	% AED	#	% AED	% AED
2014	0	0.0	0	0.0	0	0.0	0	0.0	0.0
2015	7	5.9	0	0.0	0	0.0	0	0.0	38.8
2016	6	3.8	0	0.0	0	0.0	0	0.0	78.0
2017	16	11.8	2	5.7	1	49.0	0	0.0	32.5
2018	28	26.5	10	2.4	5	5.7	1	1.0	85.8
2019	35	34.4	12	8.6	8	5.8	2	0.5	89.2
2020 (predicted)	50	67.2	21	54.3	8	52.9	2	50.3	94.6
2021 (predicted)	65	100.0	30	100.0	8	100.0	2	100.0	100

Note: UPU divides foreign postal operators according to gross national incomes based on the World Bank stratification (*https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups*). The number of countries in the Other category has been redacted to preserve commercially sensitive business information.

Sources: Calculations for most countries come from the UPU. For countries for which the UPU could not provide data, we use data from a proprietary source. See main text for details.

Foreign posts incur costs including the time devoted to negotiating data-sharing agreements with USPS, the cost of upgrading software and hardware to accommodate the outbound flow of AED, efforts spent training staff on how to collect and transmit AED, and the costs related to accepted packages rejected from the United States because they do not meet mandatory AED requirements. Of these categories, the largest costs are associated with manually entering AED for transmission. The lowest cost categories are the one-time costs to upgrade hardware and train employees, in part because these costs would have been incurred—albeit in different years—in the absence of the STOP Act.

Exhibit 8 presents costs incurred by foreign posts in the pre-statute period (2013 through 2018). Total present value costs range from $46 million to $51 million, assuming discount rates of 3 and 7 percent, respectively. Nearly all of these costs (approximately 95 percent) result from the labor required to manually enter AED. Importantly, these costs have already been incurred.

Exhibit 9 presents costs likely to be incurred by foreign posts in the future, during the post-statute period (2019 through 2028). We estimate the total present value costs are likely to range from $150 million to $170 million, assuming discount rates of 7 and 3 percent, respectively. Labor costs associated with manually entering AED comprise the majority of these costs. Because we assume the amount of affected mail sent to the United States in future years remains constant, annual costs from 2021 (the year the interim final rule takes full effect) through 2028 are constant.[86]

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[86] We evaluate the significance of this assumption (future mail volume) in Appendix B of the full Regulatory Impact Analysis, which can be found in the docket of this rulemaking.

Exhibit 8. Present Value Costs to Foreign Posts in Pre-Statute Years (2019 U.S. Dollars, 2019 Base Year)

YEAR	NEGOTIATE AED SHARING AGREEMENTS WITH USPS	UPGRADE HARDWARE		UPGRADE AND RUN SOFTWARE		TRAIN STAFF	
		WITH PILOT	WITHOUT PILOT	WITH PILOT	WITHOUT PILOT	WITH PILOT	WITHOUT PILOT
2013	Qualitative	$0	$0	$0	$0	$0	$0
2014		$140,000	$0	$0	$0	$84,000	$0
2015		$20,000	$0	$214,000	$0	$0	$0
2016		$200,000	$0	$186,000	$0	$136,500	$0
2017		$300,000	$0	$509,000	$0	$262,500	$0
2018		$260,000	$0	$1,020,000	$0	$0	$0
2019		$0	$0			$0	$0
2020		$0	$920,000			$0	$483,000
Total (net) undiscounted		$0		$1,929,000		$0	
Total (net) present value (3 percent)		**$96,220**		**$2,034,704**		**$56,090**	
Total (net) present value (7 percent)		**$229,439**		**$2,182,522**		**$134,167**	

Exhibit 8. (Continued) Present Value Costs to Foreign Posts in Pre-Statute Years (2019 U.S. Dollars, 2019 Base Year)

YEAR	KEY IN AED DATA ELEMENTS	ACCEPT REJECTED PACKAGES WITHOUT AED	TOTAL (NET)
2013	$0	$0	$0
2014	$0	$0	$224,000
2015	$6,778,086	$0	$7,012,086
2016	$13,608,060	$0	$14,130,560
2017	$5,735,765	$0	$6,807,265
2018	$15,192,404	$0	$16,472,404
2019			$0
2020			-$1,403,000
Total (net) undiscounted	$41,314,315	$0	$43,243,315
Total (net) present value (3 percent)	**$44,231,940**	**$0**	**$46,418,954**
Total (net) present value (7 percent)	**$48,377,897**	**$0**	**$50,924,025**

Source: IEc calculations using data from various sources. See main text for details.
Notes:
2019 and 2020 included due to lag in "without pilot" scenario. Present value calculated with respect to number of years in pre-statute period (2013-2018).

Exhibit 9. Total Present Value Costs to Foreign Posts in Post-Statute Years (2019 U.S. Dollars, 2019 Base Year)

YEAR	NEGOTIATE AED SHARING AGREEMENTS WITH USPS	UPGRADE HARDWARE		UPGRADE AND RUN SOFTWARE		TRAIN STAFF	
		WITH RULE	WITHOUT RULE	WITH RULE	WITHOUT RULE	WITH RULE	WITHOUT RULE
2018	Qualitative	$260,000	$0			$136,500	$0
2019		$480,000	$0	$1,276,000	$0	$252,000	$0
2020		$480,000	$1,220,000	$1,858,000	$0	$252,000	$640,500
2021		$0	$0	$2,440,000	$2,440,000	$0	$0
2022		$0	$0	$2,440,000	$2,440,000	$0	$0
2023		$0	$0	$2,440,000	$2,440,000	$0	$0
2024		$0	$0	$2,440,000	$2,440,000	$0	$0
2025		$0	$0	$2,440,000	$2,440,000	$0	$0
2026		$0	$0	$2,440,000	$2,440,000	$0	$0
2027		$0	$0	$2,440,000	$2,440,000	$0	$0
2028		$0	$0	$2,440,000	$2,440,000	$0	$0
Total (net) undiscounted			$0		$3,134,000		$0
Total (net) present value (3 percent)			**$29,353**		**$3,079,883**		**$15,411**
Total (net) present value (7 percent)			**$66,611**		**$3,012,449**		**$34,971**

Exhibit 9. (Continued) Total Present Value Costs to Foreign Posts in Post-Statute Years (2019 U.S. Dollars, 2019 Base Year)

YEAR	KEY IN AED DATA ELEMENTS	ACCEPT REJECTED PACKAGES WITHOUT AED	TOTAL (NET)
2018		Qualitative	$396,500
2019	$15,937,686		$17,945,686
2020	$17,743,428		$18,472,928
2021	$19,952,257		$19,952,257
2022	$19,952,257		$19,952,257
2023	$19,952,257		$19,952,257
2024	$19,952,257		$19,952,257
2025	$19,952,257		$19,952,257
2026	$19,952,257		$19,952,257
2027	$19,952,257		$19,952,257
2028	$19,952,257		$19,952,257
Total (net) undiscounted	$193,299,167		$196,433,167
Total (net) present value (3 percent)	**$169,143,636**		**$172,268,283**
Total (net) present value (7 percent)	**$143,866,946**		**$146,980,977**

Source: IEc calculations using data from various sources. See main text for details.
Notes:
2018 included due to one-time startup costs incurred in year before AED launch in 2019 in "with rule" scenario. Present value calculated with respect to number of years in post-statute period (2019-2028).

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Exhibit 10 presents the combined cost of the rule in the United States, including costs incurred by CBP and USPS. We estimate the total present value cost incurred in the pre-statute period ranges from approximately $29 million to $33 million, assuming discount rates of 3 and 7 percent, respectively. In the post-statute period, total present value costs likely to be incurred by these entities range from $80 million to $94 million, assuming discount rates of 7 and 3 percent, respectively. Over the combined 16-year period (2013 through 2028), present value costs range from $110 million to $120 million, assuming discount rates of 7 and 3 percent, respectively.

For the purpose of preparing the Circular A–4 (OMB 2003) accounting statement (presented in Exhibits 13 and 14), we also estimate the equal annual payment that would need to be made over the period of analysis to achieve the present value costs estimated in Exhibit 10. On an annualized basis, total costs in the post-statute period are approximately $11 million, regardless of discount rate. Over the entire 16-year period, U.S. costs range from $7.7 to $8.3 million on an annualized basis, assuming discount rates of 7 and 3 percent, respectively. Annualized costs are smaller over the longer period because the relatively larger costs incurred in the post-statute period are spread over more years.

EXHIBIT 10—TOTAL PRESENT VALUE COSTS OF THE IFR FOR U.S.-BASED ACTORS

[2019 U.S. dollars, 2019 base year]

	Pre-statute period (2013–2018)	Post-statute period (2019–2028)	Overall (2013–2028)
Undiscounted Values:			
CBP	$17,236,559	$55,504,555	$72,741,113

EXHIBIT 10—TOTAL PRESENT VALUE COSTS OF THE IFR FOR U.S.-BASED ACTORS—Continued

[2019 U.S. dollars, 2019 base year]

	Pre-statute period (2013–2018)	Post-statute period (2019–2028)	Overall (2013–2028)
USPS	10,471,201	55,755,657	66,226,858
Total	27,707,760	111,260,212	138,967,971
Total Present Value:			
3 percent	30,315,939	97,421,341	127,737,280
7 percent	34,173,540	82,932,789	117,106,328
Annualized:			
3 percent		11,088,110	8,268,550
7 percent		11,035,293	7,719,980

Other Non-Quantified Costs:

Additional non-quantified costs include past and future training time for CBP and USPS staff, time spent by USPS to develop and negotiate MOU and SOPs with CBP, and time spent by USPS to negotiate AED sharing agreements with foreign posts. Furthermore, USPS will incur additional costs if it is required to separate, store, return, or destroy mail that arrives without AED, and intended U.S. recipients of this mail will experience delay costs. These costs will only result from long-term non-compliance, and CBP and USPS will continue to work with foreign posts to ensure that this does not take place.

Source: IEc calculations using data from various sources. See main text for details.

Notes:

1. We estimate the annualized cost over the post-statute period (2019–2028) from the perspective of an individual in 2019. This reflects the equal payment that would need to be made in each future year to equal the total present value of the costs.
2. We estimate the annualized cost over the full period of analysis (2013–2028) from the perspective of an individual in 2013, when U.S.-based actors started incurring costs related to the pilots. This reflects the equal payment that would need to be made during the pre- and post-statute years to equal the total present value of the costs.
3. Totals may not sum due to rounding.

Exhibit 11 presents the total cost of the pilot and interim final rule, including costs incurred by both U.S. actors (CBP and USPS) and non-U.S. actors (the foreign posts). Specifically, we estimate total present value costs incurred in the pre-statute period are likely to range from $76 million to $84 million, assuming discount rates of 3 and 7 percent, respectively. In the post-statute period, we estimate that total present value costs are likely to range from $230 million to $270 million, assuming discount rates of 7 and 3 percent respectively. Over the entire 16-year period, total present value costs range from $310 million to $340 million, assuming discount rates of 7 and 3 percent, respectively.

On an annualized basis, total post-statute costs are estimated to be approximately $30 million, regardless of the discount rate assumption. Across the entire 16-year period, annualized costs range from $21 million to $22 million, assuming discount rates of 7 and 3 percent respectively. We present these annualized estimates for purposes of comparison with the estimates presented in Exhibit 10; however, for purposes of the Circular A–4 accounting statement, we focus on U.S.-based costs.[87]

EXHIBIT 11—TOTAL PRESENT VALUE COSTS OF THE IFR FOR U.S. AND NON-U.S. BASED ACTORS

[2019 U.S. dollars, 2019 base year]

	Pre-statute period (2013–2018)	Post-statute period (2019–2028)	Overall (2013–2028)
Undiscounted Values:			
U.S. Based Subtotal	$27,707,760	$111,260,212	$138,967,971
Non-U.S. Based Subtotal	43,243,315	196,433,167	239,676,483
Total	70,951,075	307,693,379	378,644,454
Total Present Value:			
3 percent	76,734,894	269,689,624	346,424,517
7 percent	85,097,565	229,913,765	315,011,330
Annualized:			
3 percent	30,695,001	22,424,373	
7 percent	30,593,035	20,766,436	

Other Non-Quantified Costs:

Additional non-quantified costs include past and future training time for CBP and USPS staff, time spent by USPS to develop and negotiate MOU and SOPs with CBP, and time spent by USPS and foreign posts to negotiate AED sharing agreements. Furthermore, USPS and/or foreign posts will incur additional costs if they are required to separate, store, return, or destroy mail that arrives without AED, and intended U.S. recipients will experience delay costs. These costs will only result from long-term non-compliance, and CBP and USPS will continue to work with foreign posts to ensure that this does not take place.

Source: IEc calculations using data from various sources. See main text for details.

[87] OMB's Circular A–4 (p. 15) states ''Your analysis should focus on benefits and costs that accrue to citizens and residents of the United States.'' For this reason, we include only costs to U.S. based actors in Exhibits 13 and 14.

Notes:
1. We estimate the annualized cost over the post-statute period (2019–2028) from the perspective of an individual in 2019. This reflects the equal payment that would need to be made in each future year to equal the total present value of the costs.
2. We estimate the annualized cost over the full period of analysis (2013–2028) from the perspective of an individual in 2013, when U.S.-based actors started incurring costs related to the pilots. This reflects the equal payment that would need to be made during the pre- and post-statute years to equal the total present value of the costs.
3. Totals may not sum due to rounding.

5. Benefits of Rule

The AED interim final rule represents an important component of DHS's evolving layered strategy for limiting the flow of prohibited goods entering the United States. The rule provides CBP with earlier and more detailed information about international mail being received at IMFs. Specifically, the rule requires the information to be provided prior to loading the inbound mail shipment onto the transporting conveyance. The principal benefit of the new rule will be more precise identification of at-risk shipments at an earlier time. This information will allow for better targeting and aims to improve CBP's effectiveness in preventing prohibited mail items from entering the commerce of the United States.

Our analysis examines how AED may reduce adverse opioid-related outcomes. While this category of benefits is one of many possible outcomes of the rule, our focus on opioids reflects the principal objective of the STOP Act and the relative share of benefits that we anticipate will be attributable to this category.[88] We also emphasize seizures of fentanyl and related compounds because the drug disproportionately influences opioid-related deaths and international mail is a major distribution channel for producers in China and elsewhere.[89]

For context, from 2017 to 2018, CBP officers at IMFs seized 616 mail containing fentanyl, totaling 119 kilograms of the drug, or 59.5 kilograms per year. This volume of fentanyl seizures is significant, particularly considering its high purity (*i.e.,* exceeding 90 percent by weight, CEA 2019). The influence of these seizures can be gauged by comparing the dosage to heroin consumption in the United States. Assuming a moderately high purity of 75 percent for seized fentanyl at IMFs and that 0.25 to 1 milligram of fentanyl is equivalent to a single dose of heroin, this represents roughly 45 to 179 million replacement doses seized annually. Put another way, the fentanyl seized at IMFs annually is equivalent to approximately 4 percent of the total heroin consumption annually, assuming 40 metric tons of heroin consumption and a 40:1 potency ratio of fentanyl relative to heroin.[90] [91]

Replacement doses may also be transformed into another metric, person-years of use, using basic assumptions on doses per year. Assuming 1,000 doses per person-year of use, the seized fentanyl represents roughly 45,000 to 179,000 person-years of use. The death rate per person-year of use is likely between one and four percent, meaning this annual volume of seizures may represent 450 to 7,160 overdose deaths in total.[92] [93]

Notably, current seizures are not fully attributable to the pilot program. While AED may aid in the detection and seizure of fentanyl, the total seizure amount is likely also due to other forms of targeting, including screening mail from countries of interest. Nonetheless, the staggering volume of fentanyl seizures suggests that even small improvements in CBP's targeting capabilities resulting from the use of AED will likely result in benefits exceeding the cost of obtaining and using AED in the targeting process. We also note that efforts to reduce the risk of opioid addiction, consistent with Executive Order 13563, help promote ''values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.'' This is so especially in view of the fact that the relevant risks, including that or premature death, are often inflicted on particularly vulnerable members of society.

The interim final rule will only generate benefits if AED improves CBP's ability to target mail containing illicit goods. Data from the JFK pilot provides clear evidence that AED improves CBP's ability to target mail containing illicit goods. AED targeting increased the seizure rate per inspection from 9.29 percent under conventional targeting to 16.26 percent. CBP believes that this will result in a higher seizure rate of fentanyl and other dangerous goods, but CBP databases do not separately track AED seizures for fentanyl specifically compared to conventional targeting. While data doesn't exist to show that fentanyl seizures would have also increased due to AED, there is no reason to believe that fentanyl seizures would be different from overall seizures in this regard. During the regulatory period, the improvements in targeting will be applied to a much larger portion of mail than in the pilot period because AED will be the standard requirement for all countries. CBP has seen bad actors use transshipment as a means of circumventing the enhanced enforcement that results from advance reporting of data. Requiring all countries to submit AED will close this security gap and increase the seizures from all countries. The exact effect of these seizures on the growing opioid epidemic is less clear. Literature on the effectiveness of supply-side drug policy is both limited and discouraging. For the fentanyl market, empirical studies on drug interdiction have not yet been published. However, available qualitative literature in related markets provides a more optimistic perspective on the anticipated outcomes stemming from the interim final rule because of fentanyl's lethality and its ongoing emergence as an illicit market. As discussed in more detail in section 5.1 of the full regulatory impact analysis available in the docket of this rulemaking, because fentanyl's emergence in illicit markets is relatively new, there is reason to believe that increased interdiction would reduce overall illicit use of fentanyl.

Nonetheless, data limitations hinder our ability to quantify the effectiveness, and thus the benefits, of the interim final rule. Most notably, we are unable to quantify the effect of fentanyl seizures on total use of the drug. Our assessment of benefits is therefore

[88] Other potential benefits include: Reduced supply of illicit drugs and adverse drug-related outcomes; improved competitiveness for U.S. businesses facing counterfeit items from foreign markets; and reduced risks to the U.S. agricultural sector in the form of invasive pests, plants, and contagious diseases.

[89] U.S. Government Accountability Office, *Illicit Opioids: While Greater Attention Given to Combating Synthetic Opioids, Agencies Need to Better Assess their Efforts.* GAO–18–205 (2018, p. 9–10) (''GAO, *Illicit Opioids*'').

[90] RAND (2014, p. 5) previously estimated annual U.S. heroin consumption totaled roughly 25 metric tons from 2000 to 2010, with growth later in the time period. Personal communication with Dr. Jonathan Caulkins on May 20, 2019 indicates that 40 metric tons may be an appropriate assumption for current heroin consumption.

[91] 4 percent = [59.5 kilograms of fentanyl * 0.75 purity adjustment * 40 units of heroin per unit fentanyl * 0.001 metric tons per kilogram]/40 metric tons of heroin consumed annually.

[92] Personal communication with Dr. Jonathan Caulkins, Carnegie Mellon University, May 20, 2019.

[93] 450 = 45,000 person-years * 0.01 deaths per person-year of use. 7,160 = 179,000 person-years * 0.04 deaths per person-year of use.

limited to this qualitative discussion. Quantification of the benefits of the interim final rule is unusually challenging. While the pilot programs suggest that the rule may result in additional package seizures, it is not possible to extrapolate from any estimated increase in seized packages a number to represent likely benefits, including mortality reductions, from the interim final rule. This is particularly true because of uncertainty about the effectiveness of supply-side drug policies.

Important intended effects of the interim final rule are reduced mortalities from overdoses; other important intended effects include reductions in morbidity resulting from opioid addiction. It is possible to imagine a range of plausible scenarios, in which the interim final rule has different impacts on health and economic end-states. Further, while the rule is focused on the prevention of opioid deaths as its intended goal, additional information for targeted cargo screening obtained through AED could also be used to screen for CBP's other targets such as counterfeit and dangerous goods, fraudulent goods, or illicit biological matter, or even in counterterrorism. As it related to opioids, DHS is able to describe possible scenarios rather than estimates of net benefits. Each of those scenarios involves a degree of speculation, making it hazardous to make even qualitative judgments about which is most likely to occur.

As its standard practice, DHS values a statistical life at $9.6 million.[94] The quantified costs of the rule from the post-statute period are about $31 million annualized, but the unquantified costs of the rule may be substantial. Under one scenario, the interim final rule could have a moderate effect, preventing ten premature deaths annually; under a more conservative scenario, the interim final rule could have a more modest effect, perhaps preventing five premature deaths annually. Under the moderate scenario if the rule prevented 10 premature deaths by screening for and successfully seizing opioids as they enter the country, and if the unquantified costs were roughly equal to the quantified costs, the rule could provide benefits well in excess of costs. Under the more modest scenario if the rule prevented five premature deaths and if the unquantified costs were roughly equal to half the quantified costs, the rule would also have benefits in excess of costs. Accepting the high degree of uncertainty, taking account of the magnitude of the underlying problem, and recognizing that the rule is likely to have additional benefits from assisting CBP's targeting to prevent smuggling of other items, DHS believes, in the terms of Executive Order 13563, ''that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify).''

6. Regulatory Alternatives

CBP is considering three alternative time frames by which CBP must electronically receive AED from USPS: The preferred alternative that is the subject of the extensive quantitative analysis presented in this RIA, as well as two additional alternatives that are more and less stringent. Below we describe each alternative:

Alternative 1 (the preferred alternative): CBP must receive AED from USPS as soon as practicable, but no later than prior to loading the inbound international mail shipment onto the transporting conveyance destined for the United States. CBP must electronically receive from the USPS updates to the AED, if any of the submitted data changes or more accurate data becomes available after the USPS transmits the AED. USPS must provide these updates as soon as it becomes aware that any of the submitted data changes or as soon as it becomes aware that more accurate data is available. USPS must submit updated information up until the timeframes set forth for updating AED in 19 CFR 122.48b(b)(2) (which matches the requirement to update AED currently required for commercial cargo shipments). USPS may submit updates up until the mail shipment arrives at the first CBP port in the United States.

Alternative 2: Same as Alternative 1; however, instead of requiring USPS to update AED if any of the submitted data elements changes or more details are provided, CBP would require USPS to provide updated AED for all mail shipments regardless of a change to confirm PREDES data prior to departure of the transport from the origin post.

Alternative 3: Same as Alternative 1; however, instead of requiring USPS to transmit AED prior to loading, CBP would require USPS to transmit AED information prior to arrival.

By evaluating these three alternatives, CBP is seeking the most favorable balance between benefits (*i.e.,* security outcomes) and costs. In summary:

- CBP believes that Alternative 1 provides the most favorable combination of cost and stringency as it allows for flexibility while meeting the necessary security requirements.
- Alternative 2 is the most stringent alternative, and its costs are likely to be greater than the costs estimated for Alternative 1. At the same time, this alternative would likely result in increased benefits due to better targeting (*i.e.,* more time to conduct risk assessments based on information provided in the updated AED as well as providing greater certainty in the accuracy of the information). However, CBP anticipates that the increased benefits are marginal and do not justify the additional costs.
- Alternative 3 is the least stringent alternative, and its costs are likely lower than the costs we estimate for Alternative 1. However, these cost savings come at the expense of providing the time required for CBP to properly perform risk assessments, potentially resulting in many packages with AED going unanalyzed. Though this alternative would give the foreign posts and USPS more time to transmit the information to CBP and could lead to fewer corrections, most filings can be submitted by the Alternative 1 time frame without a problem, and Alternative 3 may not provide adequate security.

7. Net Impact of Rule

Exhibit 13 provides a cost accounting statement for the interim final rule (post-statute period, 2019 through 2028). Exhibit 14 provides a cost accounting statement for the overall time frame of this analysis (pre-statute and post-statute periods, 2013 through 2028).

EXHIBIT 13—ACCOUNTING STATEMENT: POST-STATUTE DOMESTIC COSTS

	3 Percent discount rate	7 Percent discount rate
U.S. Costs (2019 USD):		
Annualized monetized costs	$11 million	$11 million.

[94] *https://www.transportation.gov/sites/dot.gov/files/docs/2016%20Revised%20Value%20of%20a%20Statistical%20Life%20Guidance.pdf.*

EXHIBIT 13—ACCOUNTING STATEMENT: POST-STATUTE DOMESTIC COSTS—Continued

	3 Percent discount rate	7 Percent discount rate
Annualized quantified, but non-monetized costs	None quantified	None quantified.
Qualitative (non-quantified) costs	Costs to CBP and USPS to develop MOU and SOPs with each other and to train staff; and costs for USPS to negotiate AED sharing agreements with foreign posts.	
U.S. Benefits:		
Annualized monetized benefits	None monetized	None monetized.
Annualized quantified, but non-monetized benefits	None quantified	None quantified.
Qualitative (non-quantified) benefits	The principal benefit of the new rule will be more precise identification of mail shipments with illicit goods at an earlier time, improving CBP's effectiveness in preventing prohibited mail items from entering the commerce of the United States. In the pilot program, AED targeting increased the seizure rate per inspection from 9.29 percent under conventional targeting to 16.26 percent. The anticipated benefits of this rule are wide-ranging given the breadth of prohibited items but may include reduced supply of illicit drugs and adverse-drug related outcomes; improved competitiveness for U.S. businesses facing counterfeit items from foreign markets; and reduced risks to the U.S. agricultural sector in the form of invasive pests, plants, and contagious diseases.	

EXHIBIT 14—ACCOUNTING STATEMENT: OVERALL COST OF RULE

[Pre- and post-statute costs]

	3 Percent discount rate	7 Percent discount rate
U.S. Costs (2019 USD):		
Annualized monetized costs	$8.3 million	$7.7 million.
Annualized quantified, but non-monetized costs	None quantified	None quantified.
Qualitative (non-quantified) costs	Costs to CBP and USPS to develop MOU and SOPs with each other and to train staff; and costs for USPS to negotiate AED sharing agreements with foreign posts.	
U.S. Benefits:		
Annualized monetized benefits	None monetized	None monetized.
Annualized quantified, but non-monetized benefits	None quantified	None quantified.
Qualitative (non-quantified) benefits	The principal benefit of the new rule will be more precise identification of mail shipments with illicit goods at an earlier time, improving CBP's effectiveness in preventing prohibited mail items from entering the commerce of the United States. In the pilot program, AED targeting increased the seizure rate per inspection from 9.29 percent under conventional targeting to 16.26 percent. The anticipated benefits of this rule are wide-ranging given the breadth of prohibited items but may include reduced supply of illicit drugs and adverse-drug related outcomes; improved competitiveness for U.S. businesses facing counterfeit items from foreign markets; and reduced risks to the U.S. agricultural sector in the form of invasive pests, plants, and contagious diseases.	

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires Federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Because this rule is being issued as an interim final rule under the good cause exception (5 U.S.C. 553(b)(B)), as set forth above, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. 601–612).

D. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Privacy

CBP will ensure that all Privacy Act requirements and policies are adhered to in the implementation of this rule, and will issue or update any necessary Privacy Impact Assessment and/or Privacy Act System of Records notice to fully outline processes that will ensure compliance with Privacy Act protections.

F. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that CBP consider the impact of paperwork and other information collection burdens

imposed on the public. There is no new information collection request burden placed on the public associated with this rule as the burden is imposed on a partner government agency. As such, the provisions of the Act do not apply to this rule.

G. Other Regulatory Requirements

For purposes of Congressional Review Act (CRA), the Office of Management and Budget (OMB) makes a determination as to whether a final rule constitutes a ''major'' rule. 5 U.S.C. 801–808. If a rule is deemed a ''major rule'' by the OMB, the CRA generally provides that the rule may not take effect until at least 60 days following its publication. 5 U.S.C. 801(a)(3). However, the CRA provides that if agency finds good cause that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the rule shall take effect at such time as the agency determines. 5 U.S.C. 808(2).

The CRA defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic and export markets. 5 U.S.C. 804(2). The Office of Information and Regulatory Affairs has determined that this rule does constitute a major rule under 5 U.S.C. 804. However, DHS is proceeding with good cause and this rule will not be subject to the typical 60 day delayed effective date. *See* 5 U.S.C. 808(2). As discussed in more detail in section V.A *Administrative Procedure Act,* the COVID–19 pandemic has accelerated drug overdose deaths, resulting in over 81,000 drug overdose deaths in the 12-month period ending in May 2020. CDC notes that ''synthetic opioids (primarily illicitly manufactured fentanyl) appear to be the driver,'' increasing 38.4 percent relative to the prior year. Ten western states reported a more than 98 percent increase in synthetic opioid-involved deaths over the same period.[95] CBP believes this rule will address a regulatory gap related the importation of illicit opioids and that delaying the implementation of this rule could result in serious harm to public health and safety by continuing to allow the illicit flow of opioids into the country while the procedural periods elapse.

H. Required Report to Congress

Pursuant to section 343(a)(3)(L) of the Trade Act of 2002 (19 U.S.C. 1415 (a)(3)(L)), DHS must submit a report regarding this interim final rule document 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 not later than 15 days prior to publication in the **Federal Register**. DHS has timely submitted the required report.

VI. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this document is signed by the Secretary of Homeland Security.

List of Subjects

19 CFR Part 4

Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Alcohol and alcoholic beverages, Cigars and cigarettes, Cuba, Drug traffic control, Freight, Penalties, Reporting and recordkeeping requirements, Security measures.

19 CFR Part 123

Canada, Freight, International boundaries, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 145

Exports, Lotteries, Postal Service, Reporting and recordkeeping requirements.

19 CFR Part 149

Foreign trade, Foreign trade zones, Freight, Imports, Reporting and recordkeeping requirements, Vessels.

Regulatory Amendments

For the reasons set forth above, CBP amends parts 4, 122, 123, 145, and 149 of title 19 of the Code of Federal Regulations (19 CFR parts 4, 122, 123, 145, and 149) as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 1. The general authority citation for part 4 is revised to read and the specific authority citation for § 4.7 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1415, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Section 4.7 also issued under 19 U.S.C. 1581(a);

* * * * *

■ 2. In § 4.7, add paragraph (f) to read as follows:

§ 4.7 Inward foreign manifest; production on demand; contents and form; advance filing of cargo declaration.

* * * * *

(f) *Inbound international mail shipments.* This section does not apply to the United States Postal Service's transmission of advance electronic information for inbound international mail shipments by vessel, see § 145.74 of this chapter.

PART 122—AIR COMMERCE REGULATIONS

■ 3. The general authority citation for part 122 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1415, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

■ 4. In § 122.0, revise paragraph (a) to read as follows:

§ 122.0 Scope.

(a) *Applicability.* (1) The regulations in this part relate to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft, and are applicable to all air commerce.

(2) The regulations in this part do not apply to the United States Postal Service's transmission of advance electronic information for inbound international mail shipments by air, see § 145.74 of this chapter.

* * * * *

PART 123—CBP RELATIONS WITH CANADA AND MEXICO

■ 5. The general authority citation for part 123 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1415, 1431, 1433, 1436, 1448, 1624, 2071 note.

* * * * *

■ 6. Revise § 123.0 to read as follows:

[95] Centers for Disease Control, Press Release, *Overdose Deaths Accelerated During COVID–19: Expanded Prevention Efforts Needed,* December 17, 2020, available at *https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html* (last accessed February 20, 2021).

§ 123.0 Scope.

This part contains special regulations pertaining to Customs procedures at the Canadian and Mexican borders. Included are provisions governing report of arrival, manifesting, unlading and lading, instruments of international traffic, shipments in transit through Canada or Mexico or through the United States, commercial traveler's samples transiting the United States or Canada, baggage arriving from Canada or Mexico including baggage transiting the United States or Canada or Mexico, and electronic information for rail and truck cargo in advance of arrival. Aircraft arriving from or departing for Canada or Mexico are governed by the provisions of part 122 of this chapter. The arrival of all vessels from, and clearance of all vessels departing for, Canada or Mexico are governed by the provisions of part 4 of this chapter. Fees for services provided in connection with the arrival of aircraft, vessels, vehicles and other conveyances from Canada or Mexico are set forth in § 24.22 of this chapter. Regulations pertaining to the treatment of goods from Canada or Mexico under the North American Free Trade Agreement are contained in part 181 of this chapter. The requirements for the United States Postal Service to transmit advance electronic information for inbound international mail shipments are set forth in § 145.74 of this chapter.

PART 145—MAIL IMPORTATIONS

■ 7. The authority citation for part 145 is amended by adding an entry for subpart G at the end to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States, 1624.

* * * * *

Subpart G also issued under 19 U.S.C. 1415, 1436.

■ 8. Revise § 145.0 to read as follows:

§ 145.0 Scope.

(a) The provisions of this part apply only to mail subject to Customs examination as set forth in § 145.2. This part contains regulations pertaining specifically to the importation of merchandise through the mail but does not contain all the regulations applicable to mail importations. Importations by mail are subject to the same requirements and restrictions as importations by any other means, except where more specific procedures for mail importations are set forth in this part. The fee applicable to each item of dutiable mail (other than Inbound Express Mail Service (EMS) items) for which Customs prepares documentation, and the fee applicable to all EMS items, is set forth in § 24.22 of this chapter.

(b) This part also contains regulations requiring the United States Postal Service (USPS) to transmit certain advance electronic data (AED) to U.S. Customs and Border Protection (CBP) for certain inbound international mail shipments as set forth in subpart G of this part.

■ 9. Add subpart G to read as follows:

Subpart G—Mandatory Advance Electronic Data for Mail Shipments

Sec.
145.73 Definitions.
145.74 Mandatory advance electronic data (AED).
145.75 Liability for civil penalties.

§ 145.73 Definitions.

For purposes of this subpart:

Designated operator means an entity officially designated by a member country of the UPU to operate postal services and fulfill its treaty obligations to the UPU. USPS is thus considered a designated operator for the United States.

Express Mail Service or *EMS* means the optional supplementary postal express service for documents and merchandise.

International Mail Facility or *IMF* means an official international mail processing center operated by CBP.

Item ID means the unique item identifier, in both human-readable and barcode format.

Letter class mail—documents means letter class (in UPU terms, letter post) mail containing only documents. Documents consist of any piece of written, drawn, printed or digital information, excluding objects of merchandise and may include M-Bags to the extent that such items do not contain goods.

Letter class mail—goods means letter class (in UPU terms, letter post) mail up to 2 kilograms containing goods, also referred to as ''small packets''. Mail over 2 kilograms containing goods must use a postal service other than letter class.

Parcel post means any mail article mailed at the parcel rate or equivalent class or category of postage.

Universal Postal Union or *UPU* means the specialized agency of the United Nations that sets the rules for international postal service for member countries.

§ 145.74 Mandatory advance electronic data (AED).

(a) *General requirements.* Pursuant to section 343(a)(3)(K) of the Trade Act of 2002 (Pub. L. 107–210, 19 U.S.C. 1415), as amended, for certain inbound international mail shipments identified in paragraph (b) of this section, CBP must electronically receive from USPS within the time frames specified in paragraph (c)(1) of this section certain mandatory advance electronic data (AED) and updates thereto as set forth in paragraph (c)(2) of this section.

(b) *Inbound international mail shipments where*—(1) *AED is required.* Except as provided in paragraphs (b)(2) and (e) of this section, CBP must electronically receive AED from USPS for inbound international mail shipments containing goods classified as Express Mail Service (EMS), Parcel post, or Letter class mail—goods.

(2) *AED is not required.* AED is not required for:

(i) Letter class mail—documents;

(ii) Items for the blind consisting of correspondence, literature in whatever format including sound recordings, and equipment or materials of any kind made or adapted to assist blind persons in overcoming the problems of blindness (up to 7 kilograms);

(iii) Items sent as Parcel post or EMS that do not contain goods;

(iii) Returned U.S. origin items;

(iv) Items transiting the U.S. in closed transit; and

(v) Items sent as U.S. domestic mail, or mail treated as domestic, including mail to or from APO, FPO, and DPO addresses, mail to or from U.S. territories and possessions, and mail to, from or between the Freely Associated States of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(c) *Time frames for providing and updating AED*—(1) *Providing AED.* CBP must electronically receive from USPS the AED identified in paragraph (d) of this section as soon as practicable, but no later than prior to loading the inbound international mail shipment onto the transporting conveyance.

(2) *Updating AED.* CBP must electronically receive from USPS updates to the AED if any of the submitted data changes or more accurate data becomes available after USPS transmits the AED. USPS must provide these updates as soon as it becomes aware that any of the submitted data changes or as soon as it becomes aware that more accurate data is available. USPS must submit updated information up until the time frame specified in § 122.48b(b)(2) of this chapter and may submit updates up until the time the mail shipment arrives at the CBP port of arrival in the United States.

(d) *Required AED.* CBP must electronically receive from USPS within the time frames specified in paragraph (c) of this section the AED set forth in paragraphs (d)(1) and (2) of this section:

(1) *Item attribute information.* The AED must include the following information about the attributes (characteristics) of mail items and their contents. This information may be provided through the item attribute or ''ITMATT'' information that USPS receives from the origin post in an electronic message that is the customs declaration equivalent to paper forms that satisfy the declaration requirements as set forth in § 145.11. An ''M'' next to any listed data element indicates that the data element is mandatory in all cases; an ''O'' next to the listed data element indicates that the data element is not mandatory, but preferred.

(i) Sender's Name (M);

(ii) Sender's Address (M);

(iii) Sender's Telephone/fax/email (O);

(iv) Recipient's Name (M);

(v) Recipient's Address (M);

(vi) Recipient's Telephone/fax/email (O);

(vii) Detailed description of contents (M);

(viii) Quantity (M);

(ix) Weight (M);

(x) Item ID (M);

(xi) Category of Item (gift, documents, sale of goods, commercial sample, merchandise, returned goods, other) (O);

(xii) Declared Value (M);

(xiii) Date of Posting (O);

(xiv) Postal Charges/Fees (O);

(xv) 10-digit HS Tariff Number (for commercial items) (O);

(xvi) Country of Origin of Goods (for commercial items) (O);

(xvii) Importer's reference (tax code, VAT number, importer number, etc.) (O);

(xviii) Importer's telephone/fax/email (O);

(xix) License Number (O);

(xx) Certificate Number (O);

(xxi) Invoice Number (O);

(xxii) Details if the goods are subject to quarantine, sanitary/phytosanitary inspection, or other restrictions (O); and

(xxiii) Designated operator (M).

(2) *Pre-advice of despatch information.* In addition to the information about each mail item in paragraph (d)(1) of this section, the required AED must also include the following information about the shipment, referred to as the ''dispatch'' or ''despatch,'' of mail receptacles of the same mail category and class sent from one post to another that includes the mail item. This information may be provided through the pre-advice of despatch or ''PREDES'' information that USPS receives from the origin post in an electronic message advising USPS about the shipment being sent.

(i) Dispatch information including origin post, destination post, and dispatch number;

(ii) Scheduled date and time of departure of the transporting conveyance;

(iii) Scheduled date and time of arrival in the United States;

(iv) Transportation information including carrier and, as applicable, flight number, voyage number, trip number, and/or transportation reference number;

(v) Scheduled International Mail Facility in the United States (IMF);

(vi) Total weight of the dispatch; and

(vii) The information for receptacles contained within the dispatch, including receptacle type, receptacle ID, and weight, as well as item ID for items nested to the receptacles, if applicable.

(e) *Exclusions from AED requirements for mail shipments from specific countries.* Pursuant to section 343(a)(3)(K)(vi) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(vi)), CBP, in consultation with USPS, may determine that a specific country or countries do not have the capacity to collect and transmit AED, represent a low risk for mail shipments that violate relevant United States laws and regulations, and account for low volumes of mail shipments that can be effectively screened for compliance with relevant United States laws and regulations through an alternate means. In such case(s), CBP will inform USPS that mail shipments from that specific country or countries are excluded from the AED requirements in this section. CBP will re-evaluate these determinations at a minimum on an annual basis.

(f) *Compliance date of this section—full compliance required not later than December 31, 2020.* Except for mail shipments from countries that are excluded from AED requirements as set forth in paragraph (e) of this section, USPS must comply with the requirements of this section for 100 percent of mail shipments described in paragraph (b) of this section not later than December 31, 2020, as set forth in section 343(a)(3)(K)(vi) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(vi)).

(g) *Shipments for which USPS has not complied with the AED requirements—*

(1) *Shipments received after December 31, 2020.* Pursuant to section 343(a)(3)(K)(vii) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(vii)), USPS must, in consultation with CBP, refuse any shipments received after December 31, 2020, for which the AED required by this section is not received by CBP, unless remedial action is warranted in lieu of refusal of shipments. If remedial action is warranted, CBP and USPS will determine the appropriate remedial action. Remedial action includes, but is not limited to, destruction, seizure, controlled delivery or other law enforcement initiatives, or correction of the failure to provide the AED described in this section with respect to the shipments.

(2) *Certain shipments received during the period beginning on January 1, 2021, through March 15, 2021.* Pursuant to section 343(a)(3)(K)(vii) of the Trade Act of 2002 (19 U.S.C. 1415(a)(3)(K)(vii)) as amended by Sec. 802 Consolidated Appropriations Act, 2021, Public Law 116–260, notwithstanding paragraph (g)(1) of this section, during the period beginning on January 1, 2021, through March 15, 2021, the Postmaster General may accept a shipment without transmission of the information described in paragraph (d) of this section if the Commissioner determines, or concurs with the determination of the Postmaster General, that the shipment presents a low risk of violating any relevant United States statutes or regulations, including statutes or regulations relating to the importation of controlled substances such as fentanyl and other synthetic opioids.

§ 145.75 Liability for civil penalties.

(a)(1) Violation of § 145.74(g) after December 31, 2020, will result in USPS being liable for penalties in accordance with the provisions of 19 U.S.C. 1436(e)(1).

(2) The amount of the penalty will be $5,000 per violation.

(b) The penalty will be reduced or dismissed based on the factors specified in 19 U.S.C. 1436(e)(2).

PART 149—IMPORTER SECURITY FILING

■ 10. The authority citation for part 149 is revised to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 943; 19 U.S.C. 66, 1415, 1624, 2071 note.

■ 11. In § 149.1, amend paragraph (a) by adding two sentences at the end of the paragraph to read as follows:

§ 149.1 Definitions.

(a) * * * For the purposes of this part the United States Postal Service is not an ISF Importer. Regulations related to the transmittal of advance electronic information for inbound international

mail shipments are set forth in § 145.74 of this chapter.

* * * * *

Alejandro N. Mayorkas,

Secretary of Homeland Security.

[FR Doc. 2021–04373 Filed 3–12–21; 8:45 am]

BILLING CODE 9111–14–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the asset allocation regulation for plans with valuation dates in the second quarter of 2021. These interest assumptions are used for valuing benefits under terminating single-employer plans and for other purposes.

DATES: Effective April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Hilary Duke (*duke.hilary@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–229–3839. (TTY users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–229–3839.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions—including interest assumptions—for valuing benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumptions in the regulation are also published on PBGC's website (*https://www.pbgc.gov*).

PBGC uses the interest assumptions in appendix B to part 4044 (''Interest Rates Used to Value Benefits'') to determine the present value of annuities in an involuntary or distress termination of a single-employer plan under the asset allocation regulation. The assumptions are also used to determine the value of multiemployer plan benefits and certain assets when a plan terminates by mass withdrawal in accordance with PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281).

The second quarter 2021 interest assumptions will be 1.82 percent for the first 20 years following the valuation date and 1.68 percent thereafter. In comparison with the interest assumptions in effect for the first quarter of 2021, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), an increase of 0.13 percent in the select rate, and an increase of 0.02 percent in the ultimate rate (the final rate).

Need for Immediate Guidance

PBGC has determined that notice of, and public comment on, this rule are impracticable, unnecessary, and contrary to the public interest. PBGC routinely updates the interest assumptions in appendix B of the asset allocation regulation each quarter so that they are available to value benefits. Accordingly, PBGC finds that the public interest is best served by issuing this rule expeditiously, without an opportunity for notice and comment, and that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication to allow the use of the proper assumptions to estimate the value of plan benefits for plans with valuation dates early in the second quarter of 2021.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. In appendix B to part 4044, an entry for ''April–June 2021'' is added at the end of the table to read as follows:

Appendix B to Part 4044—Interest Rates Used To Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* *	*	*	*	*	*	*
April–June 2021	0.0182	1–20	0.0168	>20	N/A	N/A

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

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