

De Minimis 101





History of De Minimis

Most small packages are imported under the *de minimis* threshold

- First enacted in 1938 at \$5 to avoid administrative expense to the government disproportionate to the amount of revenue realized from inspecting low value goods
- In 2016 with the passage of **TFTEA**, Congress raised the de minimis from **\$200 to \$800**
 - 2015: shipments valued at \$200 or less were approximately 134 million
 - 2016: de minimis shipments increased by 65% to nearly 220 million
 - 2022: the number of de minimis shipments had increased to 685 million—a **410% increase** in seven years





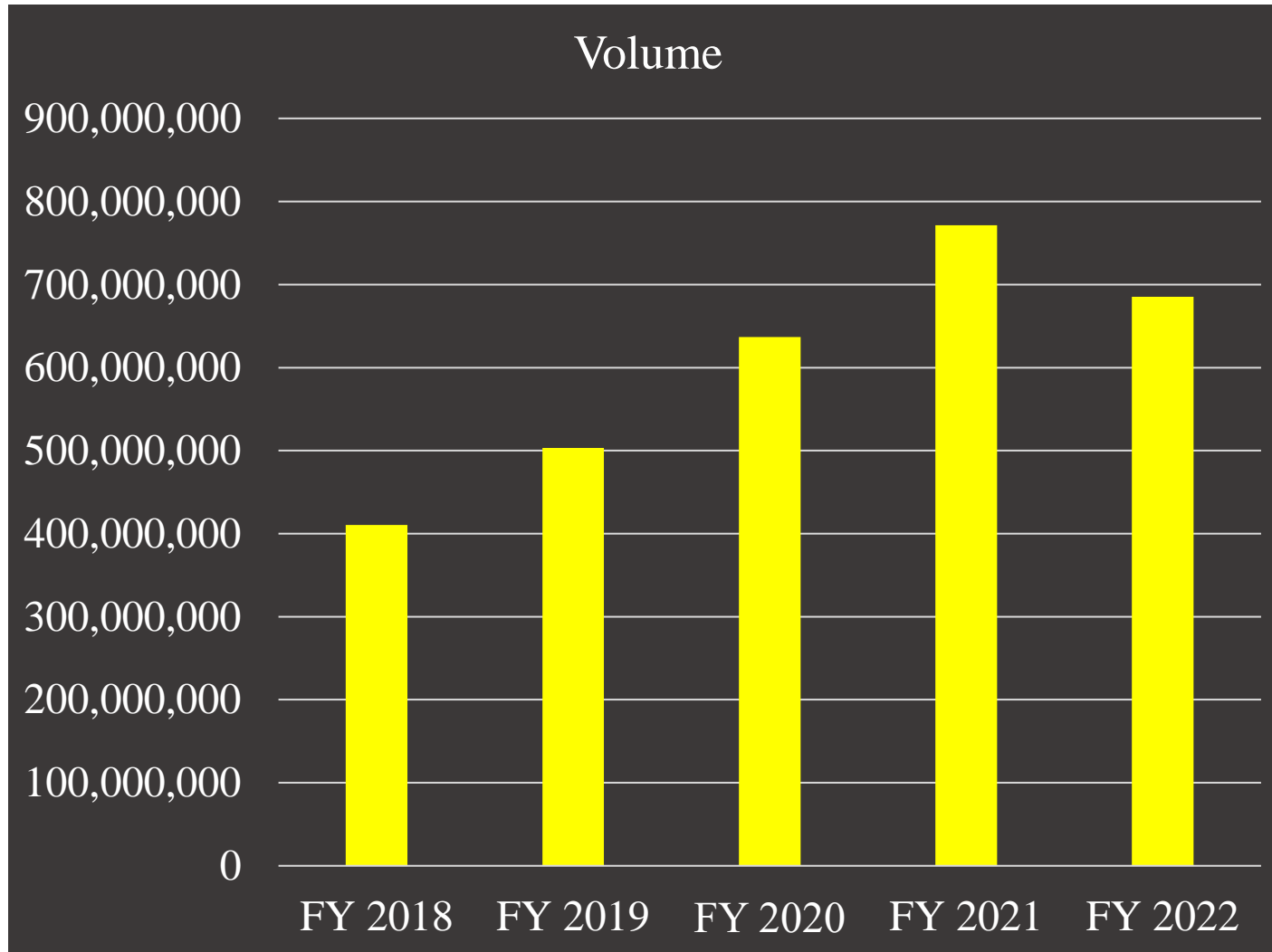
Rules for Exemption

- 19 U.S.C. §1321(a)(2)(c) enables CBP to admit qualifying merchandise duty- and tax-free, provided that the merchandise is:
 - Imported by “one person”
 - On “one day” and
 - Has a total fair retail value in the country of shipment of \$800 or less
- On July 28, 2020, CBP issued an administrative ruling recognizing fulfillment centers and domestic warehouses as the “one person” for unsold merchandise.
 - Foreign owners/sellers of unsold merchandise may also qualify as the “one person” provided:
 - Their identity is presented to CBP and
 - The total value of their merchandise imported on one day is \$800 or less





De Minimis Volume



Fiscal Year	Volume
FY 2018	410,551,603
FY 2019	503,120,599
FY 2020	636,744,478
FY 2021	771,494,078
FY 2022	685,469,359





Types of De Minimis Clearance

- Basic clearance off the manifest
 - Officers review the manifest information
 - Requires manual release
- Electronic clearance with Entry Type 86 Test
 - CBP uses rule sets to review shipment information
 - Electronic release
 - Allows for customs brokers and self-filers to electronically submit entries with a limited data set





Entry Type 86 Test

The Entry Type 86 Test allows customs brokers and self-filers to electronically submit *de minimis* entries through the Automated Broker Interface, including those subjects to partner government agency (PGA) data requirements for clearance.

This new entry type aimed to improve import safety and security by providing greater visibility into low value shipments for both CBP and PGAs while ensuring regulatory requirements are met.

Creation of the new informal entry type 86 allows for quicker clearance times.





Entry Type 86 Test (cont'd)

- ET86
 - Requires HTSUS number
 - Not allowed
 - Merchandise subject to antidumping and countervailing duties
 - Merchandise subject to quota
 - Any tax imposed under the Internal Revenue Code that is collected by other agencies on imported goods
 - Alcoholic beverages and cigars (including cheroots and cigarillos) and cigarettes containing tobacco, cigarette tubes, cigarette papers, smoking tobacco (including water pipe tobacco, pipe tobacco, and roll-your-own tobacco), snuff, or chewing tobacco are not allowed
- Expectations
 - Use of reasonable care





Section 321 Data Pilot

The goal of the Data Pilot is to collect data that CBP can use to identify:

- The entities responsible for the movement of Section 321 shipments;
- The exact contents of these shipments, i.e., “what’s in the box”;
- Their final destination after arriving in the United States.



CBP had conducted this pilot with nine participants. In FY 2022, the pilot resulted in over 161 million Section 321 Data Pilot transmissions.





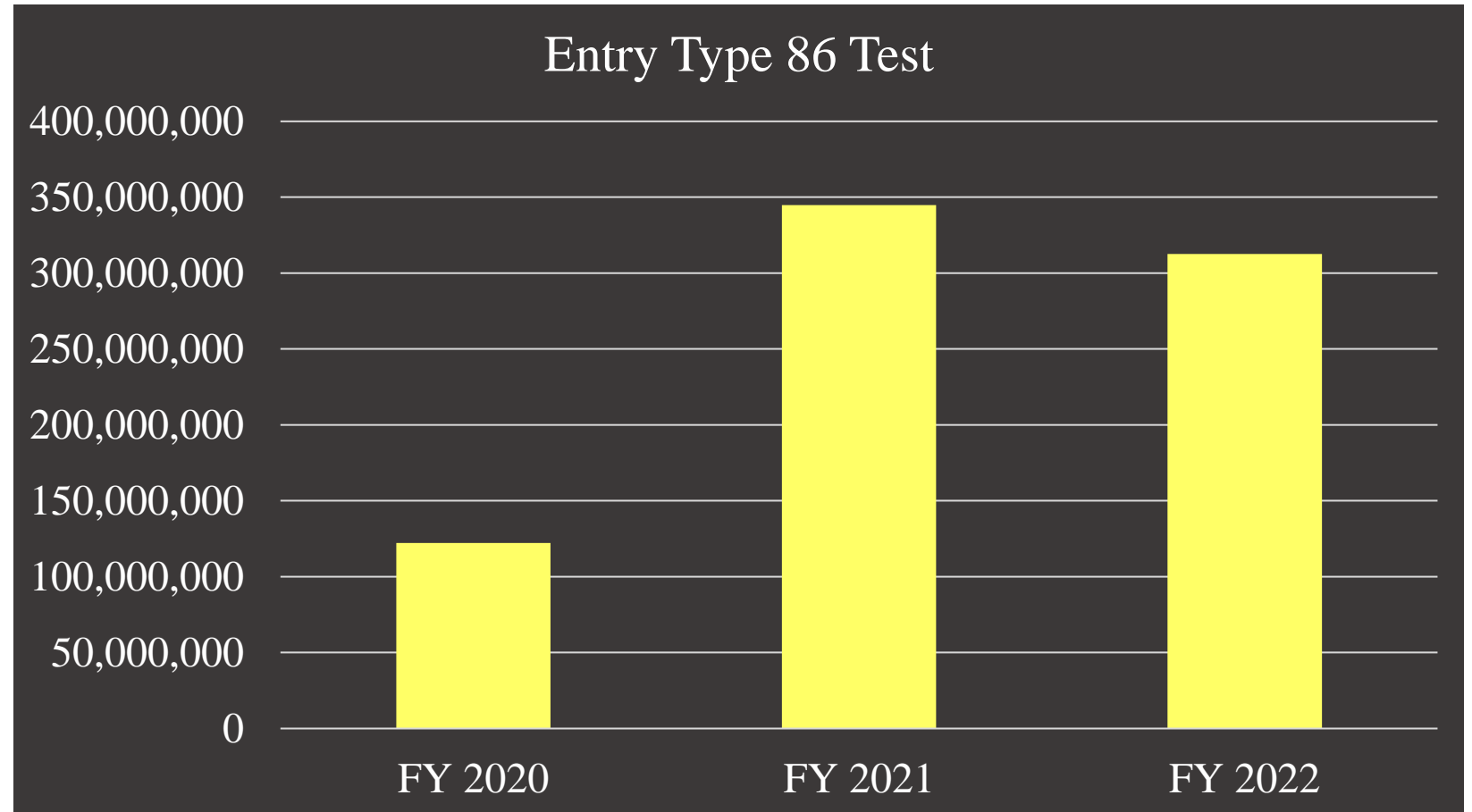
Section 321 Data Pilot

Where is the Shipment Coming From?	Seller Information including Seller ID
	Shipment Initiator Information
	Shipper Information
What are the Contents of the Shipment?	Enhanced Product Description
	Link to Product Listing
	Product Picture
	Merchandise/Product Quantity and Weight
	Listed Price on Marketplace
	Harmonized Schedule Tariff Number
Where is the Shipment Going?	Security Scan Images
	Consignee Information
	Final Deliver To Information
	Buyer Information



Entry Type 86 Test

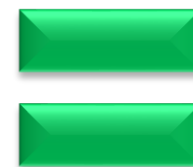
- In FY 2022, CBP received over 333 million Entry Type 86 transmissions.
- Entry Type 86 accounted for approximately 43% of all importations.





Notice of Proposed Rule Making

CBP is taking steps to integrate results from the 321 Data Pilot and the Type 86 Test into a new Section 321 entry process through a notice of proposed rulemaking (NPRM).



321 Data Pilot

Entry Type 86

The Future



Notice of Proposed Rule Making (cont'd)

- However, the 321 Data Pilot will continue as CBP explores more The NPRM will implement new data requirements for de minimis shipments choosing to use the enhanced entry process, clarify eligibility requirements, and address trade liability
- The Entry Type 86 Test will continue until the NPRM is finalized and implemented
- Once the regulations are published, the Entry Type 86 Test will go away. However, the 321 Data Pilot will continue as CBP explores more data and technology





Why Is This Important?



5/19/2023



Office of Trade



Section 321 Data Pilot Expansion

CBP is preparing to expand the Section 321 Data Pilot to additional participants which will:

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





How to Participate

CBP seeks participation from stakeholders in the e-commerce environment, including carriers, brokers, freight forwarders, and online marketplaces.

- Participants must use MQ connectivity capability, a messaging solution component, to submit data electronically to CBP and to receive messaging responses via an existing point-to-point connection with CBP
- Alternatively, participants may authorize a carrier or broker that already participates in the pilot and has an existing point-to-point connection with CBP to transmit the information on their behalf
- Prospective pilot participants should submit an email to ecommerce@cbp.dhs.gov. In the subject line of your email please state, “Application for Section 321 Data Pilot”





Questions?

