

December 21, 2010



U.S. Customs and
Border Protection

Dear AAEI, ICPA and the wider Trade Community:

We reviewed a message received from the ICPA via email expressing concern over whether CBP would hinder Santa Claus's arrival on December 25, 2010. We hope the following explains CBP's position.

We believe ICPA may have gotten some of its facts wrong or misinterpreted. As such, we wish to reassure the ICPA, the Trade Community, and the American public that Santa Claus will indeed be permitted to arrive in the US and deliver whatever gifts he may be carrying for the recipients. However, we make no guarantees, implicit or otherwise, as to the quality or desirability of the gifts. We also take no responsibility for any gifts that turn out to be lumps of coal.

- (1) It is CBP's understanding from the State Department that Kris Kringle (aka Santa Claus, Saint Nicholas, Father Christmas, Kris Kringle, or simply "Santa") has Permanent Resident status in the US, and that his diplomatic and personal passports are in good order. It is also our understanding that he has taken his vehicle (sleigh) outside of the US for his sojourn at his workshop. Under 19 CFR §148.32, vehicles, aircraft, boats, teams and saddle horses taken abroad may be admitted free of duty upon being satisfactorily identified. We believe this would necessarily include Santa's team of reindeer. Moreover, Santa has always presented his Customs Form 4455 upon his return to the US and we see no reason to expect otherwise this holiday season. Finally, we believe that CBP inspectors and other personnel who staff the Ports on December 25 are well trained and will immediately and correctly identify Kris Kringle and his team of reindeer without making any mistakes.
- (2) It is our understanding that the FAA has indeed certified Santa's sleigh. See [press release](#) from the FAA issued December 20, 2010. With respect to the EPA standards, we believe that the above cited regulation regarding teams covers Santa.
- (3) CBP understands that Santa travels in a personal aircraft designed specifically for his annual mission. Because Santa is not acting as a transportation company, Santa is not required to have a SCAC. CBP pre-clears Santa's arrival (point to point pre-clearance) before he leaves his undisclosed location nearest to Canada. After all preclearance operations have been completed, the aircraft/flight is cleared for immediate departure from the CBP Preclearance Port for arrival directly in to the specified, approved CBP port of entry. The coordinated CBP preclearance process serves to grant the private aircraft pilot permission to land and/or landing rights, as applicable or required. CBP Agriculture Specialists at the Port of Entry will coordinate with the private aircraft pilot (or the pilot's representative) and the fixed base operator to ensure compliance with proper procedures for the handling, removal, and processing of

international regulated garbage (thus permitting Santa's sleigh crew to operate legally.)

- (4) Santa recently became a member of the Trusted Traveler Program just in case he arrives for other visits and the diplomatic channel is not staffed. Moreover, to the best of our knowledge, Kris Kringle is not currently on any terrorist watch list and therefore should not encounter any delays for additional screening or inspections.
- (5) CBP agrees with Santa that his entire cargo is a consolidated gift package and, as such, will not be subject to duty provided that none of the gifts contained in the package exceed \$100 in value. It is our understanding from discussions with Santa that no gift given by Santa would exceed \$100, except on rare occasions. (See Know Before You Go, page 25 - 26.) We understand that on such occasions when the value exceeds the exemption, Santa makes special arrangements with local retailers and/or family members to handle the importing and delivery formalities of those gifts when possible. Where not possible, arrangements are to be made with Santa's Account Manager (yes, Santa was given an Account Manager at the direction of the Commissioner of Customs in order to handle the efficient administration of Christmas and other holiday requirements and also for diplomatic purposes) to handle the payment of any duty.
- (6) Santa has always assured CBP that his consolidated gift package's outermost wrapper is appropriately marked in accordance with the requirements. We wish to note, however, that the manifest and making of the outermost wrapper is considered highly confidential to Santa and to the efficient administration of Christmas and, as such, is not subject to any FOIA request.

Without betraying any confidences of Santa, we believe we can provide the following information. With respect to the times when Santa needs to make any commercial shipments (or may have in the past) that could require further customs entry formalities:

- (1) CBP believes Santa to be a trustworthy partner for security. There has never been a recorded incident of any attack on Santa or on his own supply chain. We understand Santa personally manages and oversees his entire operation and his security forces are second to none. He is the only person (and importer) we know of that has over 2 billion sets of eyes watching for any sign of misbehavior, which gets immediately reported back to him and corrective actions are taken.
- (2) No compliance visit has revealed anything other than the fact that everything delivered by Santa is truly a gift subject to the exemptions under law (see above). Therefore other customs formalities, including IncoTerms, etc. would not be required.
- (3) Gifts under \$100 are all free of duty (see above), so there would be no need to make a NAFTA claim. Because there is no formal entry there is also no merchandise processing fee.
- (4) With respect to commercial imports and shipments, CBP is not concerned about the Powers of Attorney and believe Santa is the appropriate importer of record.

Santa would not be considered a common carrier, and under 19 CFR §141.12, when merchandise is not imported by a common carrier, possession of the merchandise at the time of arrival in the United States is deemed sufficient evidence of the right to make entry.

- (5) CBP cannot comment on the relationship between the FCC and Santa. However, CBP Import Specialists polled confirm that no FCC flags or holds have ever been encountered for any of Santa's commercial shipments. The same Import Specialists polled stated that they have no records of any Census warnings being issued for any historic shipment from Santa. We do not believe Census has asked for any warnings to be programmed for HTS Heading 9804 (covering gifts) as the limitations are already built into those tariff codes.
- (6) In any event, 19 USC §1321 allows CBP to efficiently administer the laws of Customs (and at the same time enhance Santa's efficiency) by permitting many items Santa may be carrying to be admitted with as few customs formalities as possible.

We hope that this clarifies the situation and calms anyone's fears that CBP will in any way delay Santa's arrival into the USA and the delivery of the gifts he is expected to be bringing with him.

Allegedly on behalf of CBP, and without any official authorization whatsoever for this message, its content, or anything else contained herein,

Merry Christmas to all.

US CUSTOMS AND BORDER PROTECTION
WASHINGTON DC