

compromising the intent of the statute which is to enhance national security, public safety, and the enforcement of the immigration laws through timely identification of persons being transported to and from the United States.

Commenters should note that the submission of any comments or information on these or other matters addressed by this proposed rule is entirely voluntary and the Service is not prescribing the use of any form for this information.

Pursuant to the RFA and public policy concerns, the Service encourages all affected entities to provide specific estimates, wherever possible, of the economic costs that this rule will impose and the benefits that it will bring. The Service asks affected small businesses to estimate what these regulations will cost as a percentage of their total revenues, to enable the Service to ensure that small businesses are not unduly burdened.

1. Large Commercial Carriers

The Service has drafted this proposed rule to ensure the minimum possible impact on these businesses while complying with the statutory requirements. To ensure flexibility, the regulation does not mandate a specific electronic data interchange system that must be used. The regulation provides only that the transportation provider use a system that is approved by the Service.

The carriers must contact the USCS for additional technical information. The USCS and Service have APIS account managers to work with the carriers at the San Francisco, California, Houston, Texas, and Newark, New Jersey ports-of-entry. The APIS account managers have informed and notified the carriers of the new requirements, and will respond to any APIS issues, and act as a liaison between the carriers and the Service/USCS Headquarters. The USCS also provides APIS guidelines and documentation for the air carriers' technical staff. The USCS is currently updating a guideline for the sea carriers.

The Service and USCS have been working with the carrier industry for the past 10 years developing, implementing, and improving the arrival APIS information. The Service does not know how many systems are incompatible with APIS. However, EDIFACT is an international standard with which most carriers will be able to comply. For carriers that cannot comply with this requirement, alternatives are available. The Service believes that the EDIFACT system is flexible because it is an

international standard with which all carriers and other governments can comply.

Because the information must be transmitted via the USCS Data Center, it is anticipated that carriers will transmit this data via the EDIFACT message format that was developed by the USCS in connection with the initial implementation of the APIS. The USCS has specified the data elements and codes to be used. The Service and USCS are currently working with the World Customs Organizations (WCO) to inform, update, and develop international electronic arrival and departure manifest standards for all carriers. The USCS is currently in the process of converting from the US EDIFACT message format to the UN EDIFACT format.

Moreover, commercial air carriers operating passenger flights have been required to electronically submit many of the data elements prescribed in the proposed rule to the USCS in advance of arrival since December 21, 2001. Other data elements in this proposed rule are statutorily mandated and, in accordance with statute, must be provided both upon arrival and departure. The Service and USCS have consulted with ATA, IATA, and ICCL on the current and additional data elements for the arrival and departure manifests. Where the proposed rule requires data elements that are not mandated by statute, the opinions of the industry representatives were taken into consideration so as to impose no greater burden than is necessary.

The requirement in this proposed rule that carriers submit specific manifest information electronically may require large commercial carriers to purchase equipment or develop integrated systems for that purpose. As discussed below in the section on Executive Order 12866, the Service estimates that larger commercial carriers may incur programming costs of \$400,000 to implement these requirements, with an ongoing operational cost of \$1 per passenger.

2. Small Commercial Carriers

In addition to large commercial carriers, the Service believes that there may be a large number of smaller commercial aircraft and vessel operators that will be affected by the proposed rule. The Service does not have specific information about how much of an economic impact this rule might have on smaller commercial carriers. According to the United States Small Business Administration, there are 383 scheduled air passenger transportation companies with less than 1,500

employees and 63 deep sea passenger transportation companies with less than 500 employees. The information provided by the United States Small Business Administration suggests that these 446 companies have average annual receipts of approximately \$16 million. The Service believes that this rule will have a proportionally smaller economic impact upon smaller rather than larger carriers because of the volume of passengers they carry. In addition, smaller commercial carriers should not have to incur substantial initial programming costs. As discussed in the Executive Order 12866 section below, the Service estimates that the average reprogramming costs are approximately \$400,000 per carrier for large carriers. A comparable conversion for a small carrier would be much less. Some vendors currently are providing equipment and software utilizing the US EDIFACT standard for small commercial carriers in the range of \$6,800 to \$7,200 per machine. One vendor has estimated that his conversion costs would be approximately \$1,200 for his customers. This equipment automates much of the data submission process and performs functions comparable to equipment used by large commercial carriers, albeit on a much smaller scale. The Service estimates that new equipment and software that utilizes the UN EDIFACT standard should cost approximately as much as the current equipment and software.

The USCS also has an e-mail system that allows small entities to submit arrival and departure data electronically. In addition, the USCS is in the process of developing a Web-based APIS specifically for small entities, with an estimated completion date in April 2003. For either system, all that is required is a computer, e-mail, or access to the internet by the small entities to transmit the electronic arrival and departure manifests. This cost is minimal to the small entities. Indeed, the Service believes that most small carriers already will possess the necessary equipment and will not have to incur any additional costs. A carrier that decided to purchase a new personal computer should be able to do so for under \$1,000. Access to the internet is estimated to cost approximately \$20 per month.

While small entities will be required to submit new additional data (such as the United States address while in the United States, visa number, and place of issuance, where applicable, and country of residence), the collection of this information should not impose a significant burden on small entities. Therefore, the economic impact on