

to help ensure that the concerns of all interested parties are considered.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule may result in an annual effect on the economy of \$100 million or more and is therefore considered a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule, however, will not result in a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### **Executive Order 12866**

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be an economically significant regulatory action under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

##### *1. This Rule Does Not Require Carriers To Switch to the UN EDIFACT Standard*

Carriers currently submit arrival and departure manifests electronically to APIS. In accordance with section 402 of Public Law 107-173, this proposed rule also requires carriers to transmit additional data elements (e.g., U.S. address, visa information, PNR locator). These additional data elements are not

currently included in the APIS data being transmitted and carriers would have to incur some costs adapting their systems to include these elements.

However, many of the carriers with which the Service consulted, informed the Service that they have decided not to add the additional data elements to their APIS submissions. Rather, carriers plan on converting their systems from the US EDIFACT format to the UN EDIFACT format.

Carriers are making this change in data format for their own business reasons because it is the format being adopted in several foreign countries, such as Canada, Mexico, Australia, New Zealand, and United Kingdom. The Service wants to emphasize that neither section 231 of the Act nor this proposed rule require carriers to convert to the UN format. This movement to the UN format was based upon international agreements between the Immigration and Customs Services of several countries and is an international standard adopted by the IATA and ATA.

##### *2. Estimated Costs*

###### *A. One Time Programming Costs*

The conversion in EDIFACT data formats which the carriers are undertaking on their own initiative makes it difficult for them to provide the Service with the actual costs to them resulting from the new additional data elements required by the statute and this proposed rule. The estimated cost range has been from thousands of

dollars for the smaller carriers with a low volume of passengers to several million dollars for a larger carriers with a high volume number of passengers. The high-end estimates include the conversion of the US/UN EDIFACT reprogramming costs to the carrier's existing reservation systems and the hiring of additional personnel.

Carriers have informed the Service regarding the cost of new equipment they will be purchasing on their own initiative as part of their conversion to the UN EDIFACT format. Since the additional data elements this rule requires carriers to collect are not, at present, machine-readable, the Service has not included new equipment costs in its estimates below. The reprogramming costs below include both the cost of changing from the US to the UN EDIFACT format (which is not required by this rule) and the costs of processing the new data elements required by this rule, but the estimates below are the best that the carriers have been able to provide the Service regarding their non-equipment related costs of complying with this rule.

According to IATA, the average reprogramming costs are estimated at \$400,000 per carrier. The total reprogramming costs are estimated at \$36,800,000 (92 air carriers x \$400,000).

The International Council of Cruiselines (ICCL) represents 16 passenger cruises. The estimated reprogramming costs reported by ICCL members is \$2,000,000 (16 x \$125,000).

92 IATA carriers .....	\$36,800,000	
16 ICCL carriers .....	2,000,000	
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IATA and ICCL carriers .....	38,800,000	
Other carriers .....	2,716,000	(\$38,800,000 x 20% of remaining carriers =
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Total .....	41,516,000	7,760,000 x 35% of IATA/ICCL carrier costs). Estimated total one-time programming costs.

The 108 carriers represented by IATA and ICCL account for the vast majority (75-80 percent) of passengers covered by this rule. Therefore, the Service has estimated that the remaining 20 percent of the passengers transported by other carriers at a cost of \$7,760,000 (\$38,800,000 x 20 percent). The Service then estimated that these other carrier (non-IATA and ICCL carriers) costs at approximately 35 percent of the IATA and ICCL carrier costs. Since, the USCS already provides an e-mail APIS account and will be developing a Web-Base APIS system for the small entities, the Service estimates that the reprogramming costs for the small and medium size entities will be much

lower than the IATA and ICCL carrier costs. Therefore, the other carriers estimated reprogramming costs are calculated at \$2,716,000 (\$7,760,000 x 35 percent).

###### *B. Operational Costs*

The IATA estimates this rule will cost carriers approximately \$1 per transaction per passenger for additional time costs. The IATA has estimated that this will amount to approximately \$62 million for the inbound and the same for outbound with total estimated annual costs at \$124 million.

However, the Service believes that some of these processing costs can be deferred or reduced by travelers

providing these additional data elements to the travel agencies, Web-based/Internet or kiosk type reservations systems, thereby reducing the check-in time.

##### *3. Much of the Information Required By This Rule is Already Being Submitted Electronically to the Service*

USCS regulations already require all air carriers to submit arrival manifests electronically. In addition, Service regulations already require air and sea carriers to submit arrival and departure manifests electronically, for passengers traveling pursuant to the Visa Waiver Program. However, carriers have informed the Service that it is more