

Census Foreign Trade Statistics Regulations (FTSR) (15 CFR part 30).

(4) *Carrier responsibility.* (i) *Loading of cargo.* The carrier may not load cargo without first receiving from the USPPI or its authorized agent either the related electronic filing citation as prescribed under paragraph (c)(3) of this section, or an appropriate exemption statement for the cargo as specified in paragraph (d) of this section.

(ii) *High-risk cargo.* For cargo that CBP has identified as potentially high-risk, the carrier, after being duly notified by CBP, will be responsible for delivering the cargo for inspection/examination. If the cargo identified as high risk has already departed, CBP will exercise its authority to demand that the export carrier redeliver the cargo in accordance with the terms of its international carrier bond (*see* § 113.64(g)(2) of this chapter).

(5) *USPPI receipt of information believed to be accurate.* Where the USPPI or its authorized agent electronically presenting the cargo information required in paragraphs (c)(1) and (c)(2) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the USPPI or its authorized agent acquired this information, and whether and how the

USPPI or authorized agent is able to verify this information. Where the USPPI or authorized agent is not reasonably able to verify any information received, CBP will permit this party to electronically present the information on the basis of what it reasonably believes to be true.

(d) *Exemptions from reporting; Census exemptions applicable.* The USPPI or authorized agent must furnish to the outbound carrier an appropriate exemption statement (low-risk exporter or other exemption) for any export shipment laden that is not subject to pre-departure electronic information filing under this section. The exemption statement will conform to the proper format approved by the Bureau of Census. Any exemptions from reporting requirements for export cargo are enumerated in §§ 30.50 through 30.58 of the Bureau of Census Regulations (15 CFR 30.50 through 30.58). These exemptions are equally applicable under this section.

(e) *Effective date for compliance.* The requirements of this section, including the pre-departure time frames for reporting export cargo information for required shipments, and the requirement of the ITN, will be implemented concurrent with the completion of the redesign of the AES commodity module and the effective

date of mandatory filing regulations that will be issued by the Department of Commerce pursuant to the Security Assistance Act (Pub. L. 107-228). This date will be announced in the **Federal Register**.

**Robert C. Bonner,**  
*Commissioner, Customs and Border Protection.*

Approved: July 17, 2003.

**Tom Ridge,**  
*Secretary, Department of Homeland Security.*

**Note:** The following appendix will not appear in the Code of Federal Regulations.

#### **Appendix—Regulatory Flexibility Act and Executive Order 12866**

The Bureau of Customs and Border Protection (CBP) conducted the analysis below to concurrently address the requirements of the Regulatory Flexibility Act (RFA) of 1980 and Executive Order 12866. Those provisions require, respectively, that CBP (1) assess the impact of proposed rules on small business entities via an initial regulatory flexibility analysis and (2) determine if the proposed rule is a significant regulatory action, defined as having annual impact on the United States economy of \$100 million or more. Critical to recognize is the RFA's focus of the proposed rule's effect on small, United States-based entities, as established by the standards identified in Panel 1 below.

**PANEL 1.—INDUSTRY SIZE STANDARDS FOR SMALL ENTITIES<sup>1</sup>**

Mode	Industry grouping	NAICS sector identifier	Standard of measure—less than
Air .....	Scheduled and Non-Scheduled Freight .....	#48112	1500 employees.
Rail .....	Short Haul .....	#481212	
Vessel .....	Deep Sea .....	#482112	500 employees.
Truck .....	(a) General Freight, Local .....	#483111	500 employees.
	(b) General Freight, Long Distance .....	#484110	\$21.5 million gross annual revenues.
	(b) General Freight, Long Distance & Less Than Truckload .....	#484121	
	(c) Specialized Freight, Local .....	#484122	
	(e) Specialized Freight, Long Distance .....	#484220	
		#484230	

<sup>1</sup> Source: Small Business Size Standards Matched to North American Industry Classification Systems (NAICS), Small Business Administration, October 1, 2002.

#### **A. Need for and Objective of the Proposed Rule**

The proposed rule responds to the requirements of section 343(a) of the Trade Act of 2002, as amended (19 U.S.C. 2071 note). That Act requires that CBP implement procedures which require the advanced electronic submission of cargo information for both imports into and exports from the United States while not unduly impeding the flow of lawful trade. The fundamental objective of the proposed rule centers on

providing CBP with sufficient detailed information on trade flows within a sufficient advanced timeframe such that CBP may exercise review, targeting and inspection of those shipments with the purpose of identifying and subsequently inspecting those high risk shipments with potential application to terrorist activities.

#### **B. Description and Estimates of Small Entities Affected by the Proposed Rule**

The proposed rule centers on two key features: (a) electronic submission of cargo

information and (b) that information's submission prior to arrival into/departure from the United States. The advanced submission requirements vary by mode of transport, reflecting operational requirements and conditions for those modes. The advanced submission timeframes by mode are summarized in Panel 2 below: