

these segments of the trade are adjudged near negligible.

D. Recordkeeping and Reporting Requirements

The proposed rule does not include additional, new recordkeeping requirements. Instead, because of the reliance of the proposal on electronic transmissions, the proposal may well simplify and reduce existing recordkeeping obligations of the trade participants. In terms of reporting requirements, the proposal carefully relies on using existing government approved electronic data interchange tools already in widespread use by trade participants.

E. Alternatives Considered

The CBP considered and incorporated alternative methodologies into the proposed rule's data submission requirements on trade community participants. In developing the proposed rule, CBP sought to balance the operational needs of legitimate commercial cargo flows with a meaningful and effective timeframe for identifying, targeting and inspecting potentially high risk merchandise shipments. In order to identify that balance, CBP proposed requirements for advance electronic submission by mode in "Strawman" proposals. Those initial standards proposed submission timetables ranging from 24 hours prior to departure to 4–24 hours prior to lading and subsequent cargo movement.

Substantial public comment and public hearings followed the "Strawman" Proposals, offering multiple alternatives. With a high degree of uniformity and consistency, those alternatives focused on several common

issues: (1) Using already existing automated systems, such as AES and AMS for data submission; (2) different, more compact timeframes for provision of advanced information, oriented primarily around the objective of non-disruption of standard business transportation practices and commercially critical "just-in-time" delivery systems; and (3) re-focus of advanced data submission from a pre-lading basis to, respectively, a pre-arrival-into or pre-departure-from U.S. basis.

In response to public expressions and explanations, CBP, subsequent to the "Strawman" Proposals, effectively re-focused the time and transportation scheduling basis for the advanced electronic data submissions (see Panel 2 above vs. original Strawman framework) such that the proposed rule fairly closely reflects the philosophy and principles of the publicly expressed alternatives.

F. Conclusion

Regulatory Flexibility Act (RFA)

With respect to RFA considerations, CBP concludes that the proposed rule will result in no significant economic impact on a substantial number of small U.S. entities because:

(1) The proposed rule's reporting timeframes are reasonably compatible with modern shipping practices and capabilities and fundamentally reflect the alternative approaches presented by those commercial interests;

(2) The high volume of inbound and outbound transactions already currently reported on an electronic basis;

(3) Low cost of electronic transmission of the required data;

(4) Accessibility to and use of already existing government approved electronic data interchange mechanisms;

(5) Subsequent operating efficiencies resulting from electronic filing, resulting in enhanced revenue generating activities of small carriers;

(6) Exclusion of most exports to Canada from Bureau of the Census reporting;

(7) The RFA's exclusion from consideration of non-U.S. entities;

(8) Availability of existing Discrepancy Reporting authority for carriers to update/correct previously submitted cargo data; and

(9) Reporting timeframes which do not interfere with critical "just-in-time" delivery systems.

Executive Order 12866

With respect to Executive Order 12866, CBP concludes that, should USPS export transactions be included within the scope of the proposal's reporting requirements, the proposal qualifies as a significant regulatory action, with annual national economic cost greater than \$100 million because USPS costs incurred would likely be recouped as user fees charged to U.S. exporters. The reverse conclusion would hold in the event that USPS export transactions are not included within the proposed rule. Further, in the case that USPS exports are included, the USPS—express consignment commercial competitive relationship would be more equalized.

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