

industry which did not operate on strict routes and schedules.

CBP Response: The 6 transportation data elements in § 192.14(c)(2), including the estimated date of exportation and the port of exportation, are data elements that are at present mandatory for AES participants under current 15 CFR 30.63. The trade should already be reporting them. To be consistent with 15 CFR 30.63, the term, "mode of transportation", where appearing in proposed § 192.14(c)(2)(i), is changed in this final rule to "method of transportation."

Comment: The USPPI should provide only the intended port of exportation because the actual port of exportation might not be known to the USPPI.

CBP Response: The USPPI or its authorized agent must report the port of exportation as known when the USPPI or its agent tenders the cargo to the outbound carrier. Should the carrier export the cargo from a different port, and the carrier so informs the USPPI or agent, the port of exportation must be corrected by the filer in AES. Proposed § 192.14(c)(2)(vi) is revised in this final rule to clarify this issue.

Comment: One commenter wanted a more specific estimate of the expected completion and implementation date for the AES commodity module and whether it was on target for completion.

CBP Response: The target date for the redesign of the AES commodity module remains mid-2004.

Comment: The automated systems in place should be able to accommodate the required manifest reporting sufficiently for legitimate trade to continue to flow smoothly. Also, there should be a generous and realistic grace period.

CBP Response: The CBP supports the use of AES systems that are already heavily in use and widely available to USPPs; and with Internet connections, new users can be brought into the system fairly easily and inexpensively. Moreover, outbound implementation of these regulations is contingent upon the completion of the AES Commodity Redesign and implementation by the Bureau of Census of mandatory AES for all export shipments which currently require a Shipper's Export Declaration (SED) (see § 192.14(e) in this final rule).

Comments on Economic Analysis

General

Comment: Several commenters stated that the proposed rule is a significant regulatory action. It was contended that CBP did not completely appreciate the magnitude of the impact of the proposed requirements. Importers, exporters,

brokers, carriers, forwarders, consolidators and many others will be required to modify their business practices. Before implementation and enforcement begins, it is strongly believed that further economic impact analysis is warranted.

Several commenters stated that the preliminary economic analysis understated the true impact on the affected enterprises. In addition, some questioned that the preliminary analysis conclusion only addressed the impact on small entities, making it insufficient to make a proper determination of impact on the U.S. economy as a whole. Others expressed their belief that the real effect of the proposed rule would be far greater than the \$100 million threshold, making the proposal a significant regulatory action.

It was said to be hard to believe that the transportation and trade industry would not have a similar cost increase [to the \$4–\$6 USPS estimate]. This increased cost exceeded the \$100 million impact threshold. Already industry was seeing increases in transportation and operational costs associated with new security measures. The economic analysis presented seriously underestimated the true cost to industry.

It was believed that CBP failed to recognize the majority of other carriers [non-express], mostly non AMS, and other smaller carriers where the cost impact would be greater; these carriers would incur significant costs to redesign their systems. Moreover, the costs to consolidators, indirect air carriers, shippers and brokers were not factored in at all.

It was also asserted that the impact study had been too limited to support the conclusion that the cost was acceptable.

Finally, it was contended that the proposed rule stated that the effect of the rule on the economy would be slight to negligible. Yet, the study did not define negligible. The proposed rules would increase the cost of transportation for all goods imported into the U.S. other than by USPS. A significant portion, and perhaps all of these increased costs would be reflected in the increased costs of imported goods.

CBP Response: After further analysis of the proposed rule, CBP agrees that the rule is a significant regulatory action under Executive Order 12866, and that the cost of the rule will exceed \$100 million. Accordingly, CBP has conducted a regulatory impact analysis (RIA) of the rule, which is available at the following Web site, <http://www.cbp.gov>.

The CBP's economic analysis for the final rule has estimated the cost to all affected sectors unless it was determined that the costs would be insignificant or that the costs would be passed to a different sector (e.g., from brokers to importers).

Air

Comment: New automation systems and interfaces should be developed to gather the additional data elements required, at considerable costs. Additional labor costs will be incurred for systems administration, data entry, and subsequent carrier activities as a result of any targeted shipments.

It is estimated that the express industry will incur development and implementation costs in excess of \$25 million. Additional labor costs for delivery of the data and subsequent required actions for targeted shipments for the express industry will exceed \$15 million annually.

There are issues of additional handling for late shipments that must be held for the next day, lost revenues for transit shipments that will no longer be shipped on U.S. carriers, additional inventory to be carried by importers as defense against supply outages or factory shutdowns; labor reductions, and similar related actions.

CBP Response: The CBP's economic analysis for the final rule has estimated the cost of service degradation caused by delays using a logistics cost calculator for a range of delay times. The analysis always includes estimates for additional programming. The CBP has no basis on which to estimate the percentage of cargo (by weight or value) currently being transshipped through the U.S. that might be diverted through non-U.S. airports. The CBP recognizes that targeted shipments may require additional steps for air carriers, but has no basis for estimating the number of shipments that will be targeted or the degree to which the targeting will result in additional costs. For inbound shipments, the targeted shipment will be examined on arrival, which should impose a limited burden on the air carrier.

Comment: Many carriers are evaluating options for AAMS. The costs indicated by CBP for transmission fees are low compared to average costs by AAMS vendors. In addition, the cost of purchasing software is above any amounts identified by CBP.

CBP Response: The costs used in the final economic analysis are based on estimates provided by vendors. These costs vary by vendor and by the complexity of the software and its integration into the user's system. The