

a switch to immediately begin transmitting the required data is patently incorrect and ignores a multitude of operational realities of physical shipment handling, sorting, loading, weight and balance calculations, and coordinating with manifesting. Manifest preparation entails multiple automated systems that are not currently interfaced with AAMS. The simple hard fact is that large express carriers are heavily impacted through significant operational changes, earlier cut-off times, and development of new software.

CBP Response: The final economic analysis estimates costs for operational changes and earlier cut-off times. Because the two major express carriers do not use AMS for express consignments, but allow CBP to access their proprietary systems for data, CBP is uncertain that they will incur new costs for automated systems. Nonetheless, the final economic analysis includes costs for 4,000 hours of programming per AMS carrier to cover any new interfaces that are needed.

Comment: Numerous carriers arriving in the U.S. have limited or no electronic messaging capabilities in their origin locations. It would be beneficial for CBP to reevaluate the economic impact created by implementing the proposed rule. If carriers cannot currently comply or will require significant investment in systems and manpower to comply in the time allotted, JIT shipping will be in jeopardy.

CBP Response: The final economic analysis estimates costs for acquiring or developing the software needed to file electronically.

Comment: Not all affected parties were considered during the analysis. Foreign flag carriers and shippers were not part of the analysis. This rule has worldwide implications. A similar regulation has been proposed in Canada and is likely to appear in other countries. The rule will significantly impact the global trade community.

CBP Response: Executive Order 12866 requires a focus on the U.S. economy, thus enumerating all possible impacts to global trade may be beyond the scope of the analysis. To the extent that foreign entities, however, participate in the U.S. economy and impacts to foreign entities affect the U.S. economy, the Executive Order does apply to foreign entities. To that end, the accompanying regulatory impact analysis to this final rule does estimate the impact on foreign entities, although in many cases it is difficult to separate the impact on foreign entities from the overall estimate. On the other

hand, the Regulatory Flexibility Act does not apply to small foreign entities.

Comment: Forwarder and air carriers are obliged to have a huge investment to develop or modify their Electronic Data Interchange (EDI) system; they will also have a large operating cost day to day. They are afraid they will not be able to bear this huge cost.

CBP Response: The RIA estimates costs for implementing AMS. These costs are likely to vary considerably based on the level of imports being handled by a carrier or forwarder. The CBP notes that forwarders are not required to file information; they have the option to provide the information to the carrier.

Comment: The requirement for hard copy filing in the event of EDI failure is time-consuming and very costly.

CBP Response: The CBP assumes that carriers can easily e-mail or fax a hard copy to their agents at the destination airport should this be necessary.

Truck

Comment: One commenter stated that the economic analysis is inadequate and unscientific. They assert that the proposed rule is a significant regulatory action. They assert that the combined annual impact of the air and truck rules on their company would be \$695,000.

CBP Response: These comments are very general. Without knowing how the impact on their company was estimated, CBP cannot comment on the estimate. The CBP agrees that the rule is a significant action.

Comment: Several commenters stated that the "economic assumptions" used by CBP did not include additional labor and equipment needed to do the "same quantity of work in a shorter time."

CBP Response: These comments are not specific enough to permit direct response. The commenters do not offer any support for the assertion that time available to do required work has been reduced.

Comment: Some commenters refer to inaccuracies in the economic analysis, but do not specify them. They recommend that CBP conduct a comprehensive economic analysis.

CBP Response: The CBP has completed an economic analysis of the rule.

Comment: One commenter asserts that the rule will have a significant impact because many small truckers do not have the technology to use PAPS. The commenter also states that fewer than ten percent of Mexican trucking firms have automated systems in place.

CBP Response: The CBP agrees that the rule will have a significant economic impact. In order to use

Selectivity PAPS, a trucking firm will have to obtain a SCAC number and barcode strips. These costs are included in the RIA prepared by CBP. While many Mexican carriers may not have automated systems, U.S. customs brokers now make electronic pre-filings based on information supplied by Mexican brokers. This is true for all shipments except those coming through under BRASS. The RIA includes the cost to U.S. brokers for preparing the pre-entry filing for shipments now using BRASS.

Comment: The CBP is planning, in due course, full implementation of ACE. Therefore, the costs of adapting to ACE should be treated as costs of the rule.

CBP Response: The CBP's plans for implementation of ACE are not driven by the Trade Act and would be implemented whether or not the rule is implemented. Therefore, the costs of adaptation to ACE may not be attributed properly to the rule. Costs of adapting to Selectivity PAPS are included in the RIA.

Vessel

Comment: It is incumbent on CBP to provide a more meaningful and realistic analysis of the impact of the rules on small businesses before it promulgates a final rule and commences mandatory implementation and enforcement.

CBP Response: The Regulatory Flexibility Act, which establishes the "significant impact to a substantial number of small entities" test, applies to small U.S. businesses. The CBP's Regulatory Impact Analysis (RIA) for the final rule has estimated the impact of the rule on small businesses.

Comment: There is no analysis of the effects that the proposed rule will have on NVOCCs, air forwarders, and surface forwarders. In most, if not all instances, NVOCCs and other forwarders will be required to make substantial investments in software, employ additional personnel and enter into contractual arrangements with data service centers.

The regulatory flexibility analysis (RFA) should be broadened to consider both the dollar costs on forwarders and any operational consequences of the proposed rules.

CBP Response: The CBP estimates that 650 Non-Vessel Operating Common Carriers (NVOCC) are already automated. The CBP believes that the proposed requirements will not have a significant impact on a substantial number of NVOCCs. Those that choose not to automate, can instead use the services of an authorized service provider, a qualified port authority, or provide the shipment information to the