

Despite the uncertainty that exists in estimating costs, it is, therefore, likely that the rule would create a significant economic impact on small air carriers. Because most of these costs are driven by the cost of electronic data entry, which is mandated by statute, mitigating the impacts is difficult. Many of the small entities may address this issue by having the shipper or consolidator submit the information to CBP.

A copy of the small business analysis for this rule, which is chapter 6 of the regulatory impact analysis, is available on the CBP Web site, <http://www.cbp.gov>.

Paperwork Reduction Act

The collection of information in this final rule document was submitted for review and has been approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB control number 1651-0001 (Transportation Manifest (Cargo Declaration)). An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

The collection of information in this document is contained in §§ 4.7a(c)(4), 122.48a, 123.91, 123.92, and 192.14. Under these sections, the information would be required and used to determine the safety and security conditions under which cargo to be brought into or sent from the United States was maintained prior to its arrival or departure. The likely respondents and/or recordkeepers are air, truck, rail and vessel carriers, Non Vessel Operating Common Carriers (NVOCCs), freight forwarders, deconsolidators, express consignment facilities, importers, exporters, and Customs brokers. The estimated average annual burden associated with this information collection is 52.3 hours per respondent or recordkeeper.

Comments on the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, is revised as appropriate to reflect the approved information collections covered by this final rule.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) requires cost-benefit and other analyses before any rulemaking if the rule would include a "Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year". The current inflation-adjusted statutory threshold is \$113 million.

This rule will not have a significant effect on state, local or tribal governments within the scope of the UMRA. However, CBP has determined that this final rule is significant under UMRA because it anticipates that the rule will result in an aggregate expenditure by the private sector of \$113,000,000 or more in any one year.

Consequently, CBP has conducted the required economic impact analyses as noted in the above section, "EXECUTIVE ORDER 12866". The other requirements under UMRA include assessing the rule's effects on:

- Future costs
- Particular regions, communities, or industrial sectors
- National productivity
- Economic growth
- Full employment
- Job creation
- Exports

The regulatory impact analysis, discussed in the "EXECUTIVE ORDER 12866" section, covered many of these issues in greater detail. To summarize, the regulations will impose costs into the future; most costs are presented in the impact analysis on an annual basis. The regulations will impact many different regions, communities, and sectors; but with the exception of air carriers the impact will be disbursed and will not be concentrated geographically. In addition, these regulatory impacts, although large in absolute terms, generally do not rise to

the level where they could cause any sort of macro effects on productivity, growth, employment, or jobs.

With regard to the impacts on trade, although most of the information required for advance manifest notification and SED (Shippers Export Declaration) notification is already supplied to CBP, this new notice requirement may cause a reduction of imports of certain products into the U.S. and exports out of the U.S. Some entities may choose to stop exporting products from the U.S. (or importing products to the U.S.) if the additional costs of complying increase the price of the products to the point where they cannot compete with lower-priced products produced within domestic markets. On the other hand, there are products for which substitutes are not available. In these cases, and in cases where demand for the product greatly exceeds domestic supply, importers may pay an increased price for the product. The CBP believes, however, that the "per shipment" cost of these requirements is quite small and therefore this rulemaking will not have a significant impact on the relative competitiveness of foreign versus domestically produced products either within or outside of the U.S.

When a rule would result in expenditures greater than \$113 million, UMRA requires outreach to the regulated community and discussion of proposals. The CBP conducted extensive discussions with the regulated community prior to the development of the rule. In January 2003 CBP held separate meetings with each of the transportation modes to solicit information and comments. The CBP also accepted comments from members of the regulated community as it developed its proposed rule and held numerous meetings with the COAC committees, which submitted recommendations. Finally, CBP received more than 100 comments on the proposed rule, which were considered in the development of the final rule.

For a more detailed analysis, please refer to the regulatory impact analysis prepared for this rule, which is available on the CBP Web site, <http://www.cbp.gov>.

CBP Issuance of Rule Under DHS Authority; 19 CFR 0.2(a)

When the Trade Act of 2002 was enacted (Pub. L. 107-210; August 6, 2002), the Customs Service existed as part of the Department of the Treasury. Thereafter, the Homeland Security Act of 2002 was enacted (Public Law 107-296; November 25, 2002), which created