



GAO

Accountability \* Integrity \* Reliability

United States Government Accountability Office  
Washington, DC 20548

---

B-317538

December 10, 2008

The Honorable Daniel K. Inouye  
Chairman  
The Honorable Kay Bailey Hutchison  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Charles B. Rangel  
Chairman  
The Honorable Jim McCrery  
Ranking Minority Member  
Committee on Ways and Means  
House of Representatives

Subject: *Department of Homeland Security, Bureau of Customs and Border  
Protection: Importer Security Filing and Additional Carrier Requirements*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Homeland Security, Bureau of Customs and Border Protection (CBP), entitled “Importer Security Filing and Additional Carrier Requirements” (RIN: 1651-AA70). We received the rule on November 25, 2008. It was published in the *Federal Register* as an “interim final rule, solicitation of comments” on November 25, 2008, with a stated effective date of January 26, 2008. 73 Fed. Reg. 71,730.

The interim final rule requires importers and carriers of cargo into the United States to submit certain information about that cargo to the Bureau of Customs and Border Protection (CBP) by way of an approved electronic data interchange system. This rule implements section 203 of the Security and Accountability for Every Port Act of 2006, Pub. L. No. 109-347, 120 Stat. 1884 (Oct. 13, 2006), and section 343(a) of the Trade Act of 2002, 19 U.S.C. § 2071 note.

Enclosed is our assessment of CBP’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that CBP complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Associate General Counsel

Enclosure

cc: Joseph W. Clark  
Customs and Border Protection  
Department of Homeland Security

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION  
ENTITLED  
"IMPORTER SECURITY FILING AND  
ADDITIONAL CARRIER REQUIREMENTS"  
(RIN: 1651-AA70)

(i) Cost-benefit analysis

The Bureau of Customs and Border Protection (CBP) analyzed the costs and benefits of this interim final rule. CBP estimates that the increase in costs of imported shipments will range between \$48 and \$390 per shipment, or between 0.13 and 1.03 percent of the value of the shipment. CBP estimates that the total annualized costs for 2009 to 2018 of this rule to be between \$890 million and \$6.6 billion at a 3-percent discount rate and between \$990 million and \$7.0 billion at a 7-percent discount rate. CBP considered several alternatives and concluded that this rule was the best combination of cost and stringency.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603–605, 607, and 609

CBP determined that this interim final rule will likely not have a significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

The Act does not apply to rules that are necessary for national security. 2 U.S.C. § 1503(5). CBP determined that this interim final rule is necessary for national security and therefore this exception applies.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

This interim final rule was issued using the notice and comment procedures found in the Administrative Procedure Act. 5 U.S.C. § 553. On January 2, 2008, CBP published the proposed rule. 73 Fed. Reg. 90. The 60-day comment period was later extended by a further 15 days. 73 Fed. Reg. 6061 (Feb. 1, 2008). CBP received approximately 200 timely comments to which it responded in the interim final rule. 73 Fed. Reg. 71,731–71765.

Paperwork Reduction Act, 44 U.S.C. §§ 3501–3520

This interim final rule contains new and amended information collection requirements that CBP has submitted for review to the Office of Management and Budget (OMB) under the Act. These information collection requirements are associated with OMB Control Number 1651-0001 and CBP estimates that the total burden hours for these requirements to be 246.2 hours per carrier or respondent.

Statutory authorization for the rule

CBP promulgated this final rule under the authority of sections 301, 552, and 552a of title 5; section 943 of title 6; sections 58b, 66, 81a to 81u, 1202, 1431, 1433, 1434, 1448, 1459, 1481, 1484, 1498, 1551, 1552, 1553, 1584, 1581(a), 1590, 1594, 1623, 1624, 1627a, 1644, 1644a, 1646c, and 2071 note of title 19; section 3501 of title 44; and section 60105 of title 46, United States Code.

Executive Order No. 12,866

CBP determined that this interim final rule is economically significant under the Order because it may result in the expenditure of over \$100 million in any one year. OMB reviewed the rule.