

**Supporting Statement
Passenger and Crew Manifest
1651-0088**

1. On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135 (referred to in this document as "the HS Act"), which involved, among other things, the creation of a new cabinet-level department, the Department of Homeland Security, and the transfer or reorganization of a number of Executive Branch agencies and offices within existing cabinet-level departments.

Under section 1502 of the HS Act and the President's reorganization plan of November 25, 2002, and the President's January 30, 2003, modification of that reorganization plan, the statutory transfers and Presidential agency redesignations and allocations of functions described above took effect on March 1, 2003. Accordingly, as of that date the INS ceased to exist as a separate agency and the border inspection functions formerly performed by INS under the immigration laws were merged with the border functions historically performed by the Customs Service under the customs and related laws in one agency, the Bureau of Customs and Border Protection (CBP).

Therefore, the subsequent supporting statement will encompass the interim regulation published by legacy U.S. Customs Service (Customs) on December 31, 2001 and a Notice of Proposed Rulemaking (NPRM) published by the legacy Immigration and Naturalization Service (INS) on January 3, 2003. The interim regulation and the NPRM were combined into a joint regulation under Title 19 of the Code of Federal Regulations (CFR).

On November 19, 2001, the President signed into law the Aviation and Transportation Security Act, Public Law 107-71. Under this statutory provision, the transmission of passenger and crew manifest information will be required even for flights where the passengers and crew have already been pre-screened or pre-cleared at the foreign location for admission to the United States.

Specifically, under 49 U.S.C. 44909(c)(2)(A)-(E), for each passenger and crew manifest relating to a passenger flight in foreign air transportation to the United States, the following information is required to be submitted to CBP: The full name of each passenger and crew member; the date of birth and citizenship of each passenger and crew member; the gender of each passenger and crew member; the passport number and country of issuance of the passport of each passenger and crew member if a passport is required for travel; and the United States visa number or resident alien card number of each passenger and

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crew member, as applicable. In addition, under 49 U.S.C. 44909(c)(2)(F), such other information concerning passenger and crew manifests may be required to be transmitted to CBP, as may be determined to be reasonably necessary to ensure aviation safety.

On May 14, 2002, the President signed into law the Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107-173, 116 Stat. 543. This statutory provision expanded the statutory scope for manifest requirements from inbound commercial air carriers, to include all outbound carriers and commercial sea carriers.

Specifically, under Public Law 107-173 for each passenger and crew manifest relating to a commercial air or sea carrier in foreign transportation to the United States, the following information is required to be submitted to CBP for inbound and outbound flights/voyages: The full name of each passenger and crew member; the date of birth and citizenship of each passenger and crew member; the gender of each passenger and crew member; the passport number and country of issuance of the passport of each passenger and crew member if a passport is required for travel; and the United States visa number or resident alien card number of each passenger and crew member, as applicable, United States address, country of residence, and Passenger Name Record locator.

2. The CBP Regulations have been amended to implement 49 U.S.C. 44909(c)(2)(A)-(E) and Public Law 107-173, 116 Stat. 543 by modifications of 19 CFR 4.7b, 4.64, 122.49a, 122.75a air and sea carriers, for each flight/voyage subject to the statutes, to transmit separately to CBP a passenger manifest and a crew manifest by means of an electronic data interchange system that is approved by CBP. (The system currently in effect for this purpose is called the Advance Passenger Information System (APIS)).

Furthermore, the air carrier must transmit each inbound manifest so that each inbound manifest is received by CBP electronically not later than 15 minutes after the departure of the aircraft from a foreign port or place. The sea carriers must transmit each inbound manifest so that each inbound manifest is received by CBP electronically not later than 96 hours for voyages of more than 96 hours; before departure for voyages of more than 24 hours; and not later than 24 hours for all other voyages. Both air carriers and sea carriers must transmit each outbound manifest so that each outbound manifest is received 15 minutes prior to from the United States.

The regulations have been further amended to incorporate crew manifesting requirements issued by the Transportation and Security Administration (TSA) through the Emergency Amendments (EA) and Security Directives (SD). The EA and SD contain the same manifesting requirements that were already contained in the interim Customs regulation and the NPRM issued by INS. However, the EA and SD require flights that overfly the United States to comply with crew manifest requirements and all carriers must submit Master Crew Lists.

3. CBP is developing a web-based system that will allow the respondents to access the internet and electronically submit the manifest data directly to CBP. This alleviates the smaller carriers from investing in expensive departure control/reservation systems or reprogramming their existing systems. CBP is also modifying the current email application to allow carriers to continue to use this method of transmission. This alleviates the smaller carriers from having to procure software from private companies to convert their current message (referred to as US EDIFACT) to the new messaging format (referred to as UN EDIFACT or Extensible Markup Language (XML)) required by this regulation.
4. This collection is unique and there is no duplication of this data. The incorporation of TSA's requirements as contained in the EA and SD will supersede those requirements and they will be canceled.
5. In order to reduce start-up costs, CBP is going to provide small air and sea carriers several alternatives to comply with these requirements at minimal cost. CBP developed a web-based system for air carriers called "eAPIS" that will allow small carriers to log on to the internet and submit manifests directly to CBP. Likewise, CBP, in coordination with the Coast Guard, developed a web-based system for small sea carriers called electronic Notice of Arrival/Departure (eNOAD). This too will allow carriers to submit manifest data online. CBP also developed an excel worksheet and xml form that the carriers can complete and submit as an email attachment. Therefore, a personal computer is the only cost incurred by small carriers.
6. This collection is necessary for CBP to ensure compliance with 49 U.S.C. 44909 c (2) (A)-(E) and Public Law 107-173, 116 Stat. 543.
7. This information collection is conducted in a manner consistent with the guidelines of 5 CFR 1320.5(c)(2).

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8. Public comments were solicited through a Federal Register Notice published by the legacy Customs in the interim regulation on April 19, 2002 and in the NPRM published by legacy INS on January 3, 2003. The comment period ended on June 18, 2002 and February 3, 2003 respectively. There were 12 comments received from the interim regulation and 328 comments received from the NPRM. All comments were considered and addressed in this attached interim regulation. This interim rule solicits comments on the new TSA requirements and those requirements contained in this interim rule that were not published with the NPRM or legacy Customs interim rule.
9. There is no offer of a monetary or material value for this information collection.
10. This information collection does not involve Trade Secrets Act.
11. All sensitive information will be stored in a secure location.
12. Estimated Annualized Burden on The Public. The estimated burden for this information collection is approximately 306,589 hours. This is based on an estimated 14,265 carriers/respondents, with an estimated 1,846,924 responses. This includes 1,700,000 air carrier arrivals; 110,000 sea carriers arrivals and departures; 16,800 flights that overfly the United States (TSA requirement); 1,180 Master Crew list and Non-Crew List submissions (TSA requirement); and 18,944 Master Crew Lists updates (14,160 small carriers and 4784 large carriers). Each response is estimated to require .166 (10 minutes) to complete for an annual burden of 306,589 hours.

Estimated Annualized Cost on the Public. The estimated average cost for the public is \$135,000,000 annually. This is calculated based on the \$1 per traveler cost for inbound commercial air and sea carriers and \$.25 for outbound commercial air and sea passengers. The traveler counts were projected using a 2 percent increase for air travel, 6.4 percent increase for cruise ship travel, and the cargo vessel crew counts remained static. The annual cost ranged from \$110,984,312 in 2004 to 143,574,462 in 2013. This is based on \$1.25 per total traveler counts for inbound and outbound commercial air and sea carriers and \$130 Master Crew List Cost per 92 Large Carrier, \$30 per 1,188 small air carriers and \$2.50 per 16,8000 overflights.
13. Estimated Record Keeping Burden on the Public. There is no record keeping burden associated with this collection.

Estimated Capitalization Cost Burden on the Public. The capitalization costs for the public for programming and equipment costs are estimated at \$55,000,000. This is derived from \$500,000 programming costs per 92 large air carriers, \$500 computer cost per 1,188 small air carriers, \$125,000 programming costs for 16 large cruise

ship companies, and \$500 computer costs for 12,835 cargo vessels.

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14. Estimated Annualized Cost to the Federal Government. The estimated cost to the Federal Government associated with labor for analyzing and processing the information on the manifest \$6,239,025. This is based on estimated processing time of 306,586 hours annually. This is based on 1,846,924 transactions x .166 hours (10 minutes) for a total of 306,586. The total hours (306,586) are then multiplied at an average hourly rate of \$20.35.
 15. The increased burden reported is to add the requirements of the Enhanced Border Security and Visa Reform Act 2002, Public Law 107-173, 116 Stat. 543 to the requirements of the Aviation and Transportation Security Act 2001, 49 U.S.C. 44909 c (2)(A)-(E). Prior to the creation of the Department of Homeland Security and the CBP, these duplicative requirements were going to be promulgated separately by legacy Customs and legacy INS. They will now be combined into one regulation to avoid duplicative requirements and provide a uniform source for passenger and crewmember manifesting requirements. Also, CBP has further consolidated requirements by adding the TSA crew manifesting requirements in this interim rule.
 16. This information collection is not collected for statistical purposes. However, the information collected may be used and published as statistical information by other Government agencies.
 17. There is no form associated with this collection, so no expiration date is displayed.
 18. There are no exceptions to the certification statements identified in Item 19 on the 83-i.
- B. No statistical methods will be employed for this collection.