

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

1. 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 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.

On December 17, 2004, the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law 108-458, 118 Stat. 3638, was enacted. Sections 4012 and 4071 of IRTPA require DHS to issue a notice of proposed rulemaking to establish procedures to allow for pre-departure vetting of passengers onboard aircraft, and passengers and crew onboard vessels, bound for and departing from the United

States. The focus of IRTPA is to ensure that security vetting that targets potential terrorists occurs prior to departure of the aircraft or vessel in these scenarios.

The IRTPA mandates that DHS collect manifest information in sufficient time to ensure that the Federal government can perform security analysis and take appropriate action prior to the departure of aircraft and vessels. To meet this requirement, CBP must amend its current APIS regulations. Accordingly, CBP, under this final rule, will collect and vet required APIS data before passengers board aircraft bound for or departing from the United States. For sea travel, CBP will collect and vet passenger and crew data earlier than is permitted under existing regulations for vessels departing from the United States, in order to achieve the maximum ability reasonably attainable for detecting high-risk persons before they can perpetrate a terrorist act.

2. The CBP Regulations were 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. (70 FR 17820; April 7, 2005) (The system currently in effect for this purpose is called the Advance Passenger Information System (APIS)).

Under the current regulation, 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 incorporated 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.

Subsequent to the April 2005 Final Rule, CBP published a Proposed Rule to implement the pre-departure vetting requirements of IRTPA (71 FR 40035; July 14, 2006). The NPRM proposed transmission options for air carriers to transmit passenger manifests (crew manifest provisions were unaffected) through an interactive system that is configured for the sending and receipt of messages (as opposed to the then current electronic data interchange system that was non-interactive): either 60 minutes prior to departure, also proposed to be amended to mean the moment aircraft are pushed back from the gate, or as passengers checked in for the flight, up to 15 minutes prior to departure. The former option was referred to as APIS 60 and the latter as APIS Quick Query (AQQ). A third option was made available to carriers that could not adopt one of the two main options. That option allowed carriers to continue to transmit data by the non-interactive system, including an Internet functionality (eAPIS) that was then in development.

This submission pertains to the pre-departure final rule that adopts the provisions of the above-discussed NPRM with some modifications. Under the final rule, carriers may opt to transmit data interactively by making batch manifest transmissions no later than 30 minutes prior to the securing of the aircraft (defined in this rule as the moment the aircraft's doors are closed and secured for flight) or individual, per-passenger transmissions, as passengers check in for the flight, up to the securing of the aircraft. Thus, this final rule changes the requirements as proposed from 60 minutes prior to departure (push-back) to 30 minutes prior to securing the aircraft for batch transmissions (interactive or non-interactive) and from 15 minutes prior to departure (push-back) to up to the moment of securing the aircraft for AQQ transmissions.

Another change in this final rule (from the NPRM) is that any vetting result that does not clear a passenger for boarding will require the carrier to withhold issuance of a boarding pass. In the NPRM, only the AQQ process inhibited issuance of the boarding pass. Under the batch transmission options, a "not-cleared" vetting result required the carrier not to board that passenger, but a boarding pass could be issued.

The rulemaking (both the NPRM and this final rule) also requires carriers opting for interactive transmission (batch or AQQ) to upgrade their systems to be interactive capable. CBP will certify each carrier for interactive operations. The cost of this upgrade is discussed in the Regulatory Evaluation of the final rule.

3. CBP has developed a web-based system (eAPIS) that allows 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. The web address is <https://eapis.cbp.dhs.gov>
4. This collection is unique and there is no duplication of this data.
5. To reduce start-up costs, CBP provided 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). Therefore, a personal computer is the only cost incurred by small carriers.
6. Without this information, CBP would not be able to meet the requirements of the applicable law and ensure the safety of international passengers and the commercial air and sea carrier industries.
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 the NPRM published by CBP on July 14, 2006 (cited above). There were approximately 70 comments received. All comments were considered and addressed in the attached interim regulation. In response to the comments, and due to CBP's reconsideration of the process and applicable law, CBP made the changes discussed above: This final rule changes the requirements as proposed from 60 minutes prior to departure (push-back) to 30 minutes prior to securing the aircraft for batch transmissions (interactive or non-interactive) and from 15 minutes prior to departure (push-back) to up to the moment of securing the aircraft for AQQ transmissions.
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 665,241 hours. This includes 338,541 hours for carriers which is based on an estimated 14,265 carriers/respondents, with and 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 hours (10 minutes) to complete for an annual burden of 306,589 hours. As a result of the AQQ requirement in the new regulations, it is estimated that each respondent have an average additional burden of one minute. Therefore the new burden on the public is calculated as follows:
- $$1,846,924 \text{ responses} \times 11 \text{ minutes} (.1833 \text{ hours}) = 338,541 \text{ burden hours.}$$
- It also includes 327,289 burden hours in 3rd party reporting by international passengers. This is calculated by the total number of passengers 121,000,000 (95,000,000 air and 26,000,000 sea) responding one time annually for a total of 121,000,000 annual responses, with each response taking 10 seconds (.0027 hours) to present their passport to be swiped by the carrier. 121,000,000 responses x .0027= 326,700 burden hours (*Number is rounded according to ROCIS calculation)
- $$326,700 \text{ (passengers)} + 338,541 \text{ (carriers)} = 665,241 \text{ total burden hours}$$

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. Under the new regulations, additional system upgrades are estimated at \$2,000,000.

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 \$9,197,580. 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 \$30.00.
15. The increase in burden is partially due to the new requirements of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law 108-458, 118 Stat. 3638 which required DHS to issue regulations to establish procedures to allow for pre-departure vetting of passengers onboard aircraft, and passengers and crew onboard vessels, bound for and departing from the United States. The increase is also due to attributing burden hours for passengers presenting passports to the carriers.
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.