

who are in transit to a location outside the United States;

(xiii) Passenger Name Record locator, if available;

(xiv) International Air Transport Association (IATA) code of foreign port/place where transportation to the United States began (foreign port code);

(xv) IATA code of port/place of first arrival (arrival port code);

(xvi) IATA code of final foreign port/place of destination for in-transit passengers (foreign port code);

(xvii) Airline carrier code;

(xviii) Flight number; and

(xix) Date of aircraft arrival.

(c) *Exception.* The electronic passenger arrival manifest specified in paragraph (b)(1) of this section is not required for active duty U.S. military personnel being transported as passengers on arriving Department of Defense commercial chartered aircraft.

(d) *Carrier responsibility for comparing information collected with travel document.* The carrier collecting the information described in paragraph (b)(3) of this section is responsible for comparing the travel document presented by the passenger with the travel document information it is transmitting to CBP in accordance with this section in order to ensure that the information is correct, the document appears to be valid for travel to the United States, and the passenger is the person to whom the travel document was issued.

(e) *Sharing of manifest information.* Information contained in the passenger manifests required by this section that is received by CBP electronically may, upon request, be shared with other Federal agencies for the purpose of protecting national security. CBP may also share such information as otherwise authorized by law.

[CBP Dec. 05-12, 70 FR 17852, Apr. 7, 2005, as amended by CBP Dec. 07-64, 72 FR 48342, Aug. 23, 2007]

§ 122.49b Electronic manifest requirement for crew members and non-crew members onboard commercial aircraft arriving in, continuing within, and overflying the United States.

(a) *Definitions.* The definitions set forth below apply for purposes of this section. The definitions set forth in

§ 122.49a(a), other than those for the terms set forth below, also apply for purposes of this section:

All-cargo flight. “All-cargo flight” means a flight in operation for the purpose of transporting cargo which has onboard only “crew members” and “non-crew members” as defined in this paragraph.

Carrier. In addition to the meaning set forth in § 122.49a(a), “carrier” includes each entity that is an “aircraft operator” or “foreign air carrier” with a security program under 49 CFR part 1544, 1546, or 1550 of the Transportation Security Administration regulations.

Crew member. “Crew member” means a pilot, copilot, flight engineer, airline management personnel authorized to travel in the cockpit, cabin crew, and relief crew (also known as “deadheading crew”). However, for all other purposes of immigration law and documentary evidence required under the Immigration and Nationality Act (8 U.S.C. 1101, *et seq.*), “crew member” (or “crewman”) means a person serving onboard an aircraft in good faith in any capacity required for the normal operation and service of the flight (8 U.S.C. 1101(a)(10) and (a)(15)(D), as applicable). In addition, the definition of “crew member” applicable to this section should not be applied in the context of other customs laws, to the extent this definition differs from the meaning of “crew member” contemplated in such other customs laws.

Flight continuing within the United States. “Flight continuing within the United States” refers to the domestic leg of a flight operated by a foreign air carrier that originates at a foreign port or place, arrives at a U.S. port, and then continues to a second U.S. port.

Flight overflying the United States. “Flight overflying the United States” refers to a flight departing from a foreign port or place that enters the territorial airspace of the U.S. en route to another foreign port or place.

Non-crew member. “Non-crew member” means air carrier employees and their family members and persons traveling onboard a commercial aircraft for the safety of the flight (such as an animal handler when animals are onboard). The definition of “non-crew member” is limited to all-cargo flights.

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(On a passenger or dual flight (passengers and cargo), air carrier employees, their family members, and persons onboard for the safety of the flight are considered passengers.)

Territorial airspace of the United States. “Territorial airspace of the United States” means the airspace over the United States, its territories, and possessions, and the airspace over the territorial waters between the United States coast and 12 nautical miles from the coast.

(b) *Electronic arrival manifest—(1) General requirement.* Except as provided in paragraph (c) of this section, an appropriate official of each commercial aircraft operating a flight arriving in or overflying the United States, from a foreign port or place, or continuing within the United States after arriving at a U.S. port from a foreign port or place, must transmit to Customs and Border Protection (CBP) an electronic crew member manifest and, for all-cargo flights only, an electronic non-crew member manifest covering any crew members and non-crew members onboard. Each manifest must be transmitted to CBP at the place and time specified in paragraph (b)(2) of this section by means of an electronic data interchange system approved by CBP and must set forth the information specified in paragraph (b)(3) of this section. Where both a crew member manifest and a non-crew member manifest are required with respect to an all-cargo flight, they must be combined in one manifest covering both crew members and non-crew members. Where a passenger arrival manifest under §122.49a and a crew member arrival manifest under this section are required, they must be transmitted separately if the transmission is in US EDIFACT format.

(2) *Place and time for submission; certification; changes to manifest.* (i) *Place and time for submission.* The appropriate official specified in paragraph (b)(1) of this section must transmit the electronic manifest required under paragraph (b)(1) of this section to the CBP Data Center, CBP Headquarters:

(A) With respect to aircraft arriving in and overflying the United States, no later than 60 minutes prior to departure of the aircraft from the foreign

port or place of departure, and with respect to aircraft continuing within the United States, no later than 60 minutes prior to departure from the U.S. port of arrival;

(B) For a flight not originally destined to arrive in the United States but diverted to a U.S. port due to an emergency, no later than 30 minutes prior to arrival; in cases of noncompliance, CBP will take into consideration that the carrier was not equipped to make the transmission and the circumstances of the emergency situation; and

(C) For an aircraft operating as an air ambulance in service of a medical emergency, no later than 30 minutes prior to arrival;

(ii) *Certification.* Except as provided in paragraph (c) of this section, the appropriate official, by transmitting the manifest as required under paragraph (b)(1) of this section, certifies that the flight’s crew members and non-crew members are included, respectively, on the master crew member list or master non-crew member list previously submitted to CBP in accordance with §122.49c. If a crew member or non-crew member on the manifest is not also included on the appropriate master list, the flight may be, as appropriate, denied clearance to depart, diverted from arriving in the United States, or denied clearance to enter the territorial airspace of the United States.

(iii) *Changes to manifest.* The appropriate official is obligated to make necessary changes to the crew member or non-crew member manifest after transmission of the manifest to CBP. Necessary changes include adding a name, with other required information, to the manifest or amending previously submitted information. If changes are submitted less than 60 minutes before scheduled flight departure, the air carrier must receive approval from TSA before allowing the flight to depart or the flight may be, as appropriate, denied clearance to depart, diverted from arriving in the United States, or denied clearance to enter the territorial airspace of the United States.

(3) *Information required.* The electronic crew member and non-crew

member manifests required under paragraph (b)(1) of this section must contain the following information for all crew members and non-crew members, except that the information specified in paragraphs (b)(iii), (v), (vi), (vii), (xiii), (xv), and (xvi) of this section must be included on the manifest only on or after October 4, 2005:

- (i) Full name (last, first, and, if available, middle);
- (ii) Date of birth;
- (iii) Place of birth (city, state—if applicable, country);
- (iv) Gender (F = female; M = male);
- (v) Citizenship;
- (vi) Country of residence;
- (vii) Address of permanent residence;
- (viii) Status on board the aircraft;
- (ix) Pilot certificate number and country of issuance (if applicable);
- (x) Travel document type (*e.g.*, P = passport; A = alien registration card);
- (xi) Passport number, if a passport is required;
- (xii) Passport country of issuance, if a passport is required;
- (xiii) Passport expiration date, if a passport is required;
- (xiv) Alien registration number, where applicable;
- (xv) Passenger Name Record locator, if available;
- (xvi) International Air Transport Association (IATA) code of foreign port/place where transportation to the United States began or where the transportation destined to the territorial airspace of the United States began (foreign port code);
- (xvii) IATA code of port/place of first arrival (arrival port code);
- (xviii) IATA code of final foreign port/place of destination for (foreign port code);
- (xix) Airline carrier code;
- (xx) Flight number; and
- (xxi) Date of aircraft arrival.

(c) *Exceptions.* The electronic crew member or non-crew member manifest requirement specified in paragraph (b)(1) of this section is subject to the following conditions:

(1) Federal Aviation Administration (FAA) Aviation Safety Inspectors with valid credentials and authorization are not subject to the requirement, but the manifest requirement of §122.49a applies to these inspectors on flights ar-

riving in the United States, as they are considered passengers on arriving flights;

(2) For crew members traveling onboard an aircraft chartered by the U.S. Department of Defense that is arriving in the United States, the provisions of this section apply regarding electronic transmission of the manifest, except that:

(i) The manifest certification provision of paragraph (b)(2)(ii) of this section is inapplicable; and

(ii) The TSA manifest change approval requirement of paragraph (b)(2)(iii) of this section is inapplicable;

(3) For crew members traveling onboard an aircraft chartered by the U.S. Department of Defense that is continuing a flight within the United States or overflying the United States, the manifest is not required;

(4) For non-crew members traveling onboard an all-cargo flight chartered by the U.S. Department of Defense that is arriving in the United States, the manifest is not required, but the manifest requirement of §122.49a applies to these persons, as, in this instance, they are considered passengers on arriving flights; and

(5) For non-crew members traveling onboard an all-cargo flight chartered by the U.S. Department of Defense that is continuing a flight within the United States or overflying the United States, the manifest is not required.

(d) *Carrier responsibility for comparing information collected with travel document.* The carrier collecting the information described in paragraph (b)(3) of this section is responsible for comparing the travel document presented by the crew member or non-crew member with the travel document information it is transmitting to CBP in accordance with this section in order to ensure that the information is correct, the document appears to be valid for travel to the United States, and the crew member or non-crew member is the person to whom the travel document was issued.

(e) *Sharing of manifest information.* Information contained in the crew member and non-crew member manifests required by this section that is received by CBP electronically may, upon request, be shared with other Federal

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agencies for the purpose of protecting national security. CBP may also share such information as otherwise authorized by law.

(f) *Superseding amendments issued by TSA.* One or more of the requirements of this section may be superseded by specific provisions of, amendments to, or alternative procedures authorized by TSA for compliance with an aviation security program, emergency amendment, or security directive issued by the TSA to an air carrier subject to 49 CFR part 1544, 1546, or 1550. The provisions or amendments will have superseding effect only for the air carrier to which issued and only for the period of time specified in the provision or amendment.

[CBP Dec. 05-12, 70 FR 17852, Apr. 7, 2005]

§ 122.49c Master crew member list and master non-crew member list requirement for commercial aircraft arriving in, departing from, continuing within, and overflying the United States.

(a) *General requirement.* Air carriers subject to the provisions of §122.49b and §122.75b, with respect to the flights covered in those sections, must electronically transmit to Customs and Border Protection (CBP), by means of an electronic data interchange system approved by CBP, a master crew member list and a master non-crew member list containing the information set forth in paragraph (c) of this section covering, respectively, all crew members and non-crew members operating and servicing its flights. The initial transmission of a list must be made at least two days in advance of any flight a crew member or non-crew member on the list will be operating, serving on, or traveling on and must contain the information set forth in paragraph (c) of this section. After review of the master crew list and the master non-crew list by TSA, TSA will advise the carrier of any crew members or non-crew members that must be removed from the list. Only those persons on the TSA-approved master crew and master non-crew lists will be permitted to operate, serve on, or travel on flights covered by this section. Until a carrier becomes a participant in the CBP-approved electronic interchange

system, it must submit the required information in a format provided by TSA.

(b) *Changes to master lists.* After the initial transmission of the master crew member and non-crew member lists to CBP, the carrier is obligated to update the lists as necessary. To add a name to either list, along with the required information set forth in paragraph (c) of this section, or to add or change information relative to a name already submitted, the carrier must transmit the information to CBP at least 24 hours in advance of any flight the added or subject crew member or non-crew member will be operating, serving on, or traveling on. A carrier must submit deletions from the lists as expeditiously as possible.

(c) *Master list information.* The electronic master crew lists required under paragraph (a) of this section must contain the following information with respect to each crew member or non-crew member that operates, serves on, or travels on a carrier's flights that are covered by this section except that the information specified in paragraphs (c)(4), (5), (6), (7), and (10) of this section must be included on the manifest only on or after October 4, 2005:

- (1) Full name (last, first, and, if available, middle);
- (2) Gender;
- (3) Date of birth;
- (4) Place of birth (city, state—if applicable, and country);
- (5) Citizenship;
- (6) Country of residence;
- (7) Address of permanent residence;
- (8) Passport number, if passport required;
- (9) Passport country of issuance, if passport required;
- (10) Passport expiration date, if passport required;
- (11) Pilot certificate number and country of issuance, if applicable;
- (12) Status onboard the aircraft.

(d) *Exception.* The master crew member and non-crew member list requirements of this section do not apply to aircraft chartered by the U.S. Department of Defense.

(e) *Superseding amendments issued by TSA.* One or more of the requirements of this section may be superseded by specific provisions of, amendments to,