



**U.S. Customs and
Border Protection**

MEMORANDUM FOR: Sharon Black
Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

THROUGH: Eric Hysen
Chief Information Officer
Department of Homeland Security

FROM: William A. Ferrara 
Executive Assistant Commissioner Office of Field Operations
U.S. Customs and Border Protection
Department of Homeland Security

SUBJECT: Advance Collection of Information from Certain Undocumented Individuals
Potentially Amenable for an Exception to Title 42 and Processing under Title 8.

This memorandum requests an emergency approval for the collection of information under the Paperwork Reduction Act (PRA) for U.S. Customs and Border Protection’s (CBP) collection of advance information on certain undocumented individuals potentially amenable for an exception to Title 42 and processing under Title 8 at southwest border land ports of entry (POEs).

The Department of Homeland Security (DHS), in consultation with U.S. Customs and Border Protection (CBP) and the Centers for Disease Control and Prevention (CDC), is working to establish a streamlined process to facilitate efficient processing of individuals who may be amenable to exception from the CDC’s Order *Suspending the Right To Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists* (“CDC Order”) and for processing at POEs. To better carry out DHS’s role in assisting with the implementation of the CDC Order—including exercising the discretion to except for humanitarian reasons built into the Order, and efficient processing under Title 8 of individuals excepted from the Order, CBP is proposing this new data collection. The purpose is to achieve efficiencies to process individuals excepted from the Order and processed under Title 8 consistent with public health protocols, space limitations, and other restrictions given the current pandemic.

To streamline processing at POEs, CBP plans to leverage certain biographic and biometric information of certain individuals voluntarily provided, directly or through non-governmental organizations and international organizations, in advance of arrival at the POE. This collection would allow for streamlined in-person processing at the port itself by reducing the need for

manual data entry. This information collection would reduce the amount of time these individuals are in CBP custody and reduce risk of exposure to COVID-19.

It is vital that CBP implement the information collection as soon as possible in order to process individuals potentially amenable to an exception to Title 42 in a streamlined and expeditious manner to minimize the amount of time individuals spend in congregate settings and to ensure the safety of the individuals and CBP employees. In accordance with the Paperwork Reduction Act (PRA) and the Office of Management and Budget's (OMB) implementing regulations at 5 C.F.R. § 1320.13: (1) this information is necessary to the mission of the agency, (2) this information is necessary prior to the time periods established under PRA, (3) public harm is reasonably likely to result if normal clearance procedures are followed, and (4) an unanticipated event has occurred.

1. Information is Essential to the Mission of the Agency

Because of the substantial risk to life, safety, or health of individuals, CBP requests emergency approval to create a new information collection to streamline processing, taking into account public health protocols, space limitations, and other restrictions given the current pandemic.

As of April 20, 2021, the Southwest Border accounts for 30 percent of all positive tests for Office of Field Operations (OFO) within CBP and almost 70 percent of OFO deaths related to COVID-19. As DHS increases the number of undocumented individuals processed at POEs, it is vital that it leverages existing technologies to streamline that process and reduce the time individuals spend in a congregate setting at the POE.

As an immediate solution, CBP will provide a template to assist in the collection of this information and will transition to the use of a mobile application and a desktop application to be used by international organizations and non-government organizations.

2. Paperwork Reduction Act Timeframes

Given the current public health situation in light of the current COVID-19 pandemic, it would be impracticable and contrary to the public interest to delay implementing this information collection until after CBP has completed the PRA process.

3. Public Harm is Reasonably Likely to Result if Normal Clearance Procedures are Followed

Public harm is reasonably likely to result if this information is not collected.

Failure to collect this information would cause delays in processing all travelers at the Port of Entry, as well as increase the time these individuals will be in a congregate setting, increasing the risk of transmission of COVID-19 among these individuals and CBP employees.

4. An Unanticipated Event Has Occurred

COVID-19 was declared to be a worldwide pandemic by the World Health Organization on March 11, 2020, and a national emergency on March 13, 2020 (85 FR 15337).

CBP is requesting emergency approval of this information to ensure CBP can process these individuals, and all other travelers, in a safe and secure manner consistent with public health protocols and space limitations. Delay in the approval of these information collections will disrupt CBP's ability to comply with other provisions of the law and its overall mission to secure the homeland.

5. Conclusion

Following the normal clearance procedures for OMB approval to require individuals, international organizations or non-government organizations to provide advance information prior to arriving at the port of entry would delay CBP's ability to process these individuals. As discussed, CBP certifies that this request meets the requirements of 5 C.F.R. § 1320.13(a) and it is vital that this revised collection be implemented immediately because: (1) this information is essential to the mission of the Agency, (2) this information is necessary prior to the timeframes established under the PRA, (3) public harm will result if normal clearance procedures are followed, and (4) unanticipated events have occurred.

Thank you for your consideration.

Upon approval and after implementation of the information collection process, CBP will address public comments as necessary under the normal PRA approval process.

Please contact Acting Executive Director, Adam Wolf at 202-344-1467 with any additional questions or concerns.