

**BEFORE
UNITED STATES CUSTOMS AND BORDER PROTECTION
DEPARTMENT OF HOMELAND SECURITY
WASHINGTON, DC**

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In the matter of	:	
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PROPOSED COLLECTION;	:	
COMMENT REQUEST;	:	
ARRIVAL AND DEPARTURE RECORD	:	Docket No. E7-21968
(FORMS I-94 AND I-94W)	:	
NOTICE	:	
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**COMMENTS OF THE
AIR TRANSPORT ASSOCIATION OF AMERICA, INC.**

The Air Transport Association of America, Inc. submits these comments in response to the United States Customs and Border Protection's Notice concerning the collection requirement concerning the Arrival and Departure Record, Forms (I-94 and I-94W¹ 72 Fed. Reg. 63622 (Nov. 9, 2007)).

We do not support CBP's desire to continue the use of both the I-94 and I-94W paper records for the arrival and departure of foreign nationals and in particular, object to the revision of the forms to include an email address and phone number. Over the past several years, we have been repeatedly assured that CBP would be moving towards an automated environment with regard to the collection of information for arriving and departing passengers. It seems odd that this Notice, which is being issued pursuant to the

¹ ATA's members are: ABX, Inc.; Alaska Airlines, Inc.; Aloha Airlines, Inc.; American Airlines, Inc.; ASTAR Air Cargo, Inc.; Atlas Air, Inc.; Continental Airlines, Inc.; Delta Air Lines, Inc.; Evergreen International Airlines, Inc.; Federal Express Corporation; Hawaiian Airlines; JetBlue Airways Corp.; Midwest Airlines; Northwest Airlines, Inc.; Southwest Airlines, Co.; United Airlines, Inc.; UPS Airlines; and US Airways, Inc. ATA's association members are: Air Canada; Air Jamaica; and Mexicana.

Paperwork Reduction Act of 1995 (Pub. L. 104-13; 44 U.S.C. 3505(c)(2)) includes a proposal to revise the information collected on these forms by adding an email address and phone number rather than a recommendation to eliminate the forms.

I. Overview

Over the past fifteen years, we have worked closely with CBP to develop and implement multiple electronic passenger information requirements such as the Advanced Passenger Information System (APIS), access to the airlines Passenger Name Records (PNR), and the requirements for US-VISIT. In addition, ATA has worked closely with the Transportation Security Administration (TSA) during the development of Secure Flight for which we recently submitted comments to the August 23, 2007, Notice of Proposed Rulemaking. Currently, we are in the process of implementing the requirements for the APIS Pre-departure Final Rule.

We believe that the development of these newer, largely electronic passenger information collection requirements has made the paper I-94 and I-94W forms obsolete. Most of the information on these forms is already collected through the current APIS program or will be once the requirements for the APIS Pre-departure Final Rule are fully implemented. In fact, in the APIS Final Rule, CBP publicly committed to review the I-94 form with the thought of reducing or eliminating it. (APIS Final Rule, 70 Fed. Reg. at 17819, 17833.) The Rule states *"With regard to the I-418 and the I-94 forms, CBP intends to study whether, and if so to what extent, the transmission of the APIS data can replace the submission of these paper forms. Preliminary analysis indicates that these documents can be significantly reduced, if not eliminated."* Has this review taken place? Why has there been a reversal in CBP's thought process? We believe that continuing the

use of an antiquated system such as paper forms does not make sense when air carriers are spending millions of dollars to automate the passenger information collection process.

II. Issues

A. Proposal for Additional Data

The Notice proposes to revise the information collected on both the I-94 and the I-94W forms by adding an email address and phone number. However, nowhere in the Notice is there a stated justification for these additional data elements, nor is there an explanation of what the intended use will be. We strongly object to the addition of these two items because of this lack of justification and the inevitable confusion to passengers who must fill out these revised forms.

This proposal generates several obvious questions. What if they don't have an email address? Which phone number is CBP requesting, a home phone number, a business phone number, a cell phone number? Will these additional data elements be mandatory?

Even more fundamentally, however, what is the justification for such a new information requirement? The November 9th notice does not answer that question; it merely states that "CBP proposes to revise this information collection by adding email address and phone number to the I-94 and I-94W" 72 Fed. Reg. at 63622. CBP has never indicated that it cannot fulfill its obligations using existing categories of passenger information. Indeed, the introduction of the APIS Pre-departure Final Rule should enhance that ability. Moreover, this proposal contradicts the fundamental Paperwork Reduction Act principle that agencies "reduce information collection burdens on the

public. . .” 44 U.S.C. §3506(b)(1)(A). This unjustified new burden flies in the face of that statutory instruction.

Given the foregoing considerations, the proposed additional information should not be approved.

B. Number of Respondents

The Notice states that the estimated number of respondents is 17,924,380. We believe that this number is incorrect. Publicly available Department of Homeland Security data notes that I-94 admissions for fiscal year 2005 were far higher, 32 million admissions and 26.9 million individuals (Source: Department of Homeland Security Office of Immigration Statistics, Policy directorate, “Temporary Admission of Nonimmigrants to the United States; 2005” dated July 2006).

CBP needs to clarify this discrepancy.

C. CBP’s Estimates of the Burden of the Information Collection

In estimating the burden of this information collection, CBP fails to note or to quantify the burden on airlines to stock, transport, distribute, educate passengers, collect and transmit or pay fines related to the millions of I-94 and I-94W forms that CBP processes annually. Air carriers must touch each form twice – at distribution and at collection. Air carriers must include the stocking of these forms when calculating the amount of jet fuel needed for flights. With the price of jet fuel at record levels, air carriers are looking for ways to lighten the load.

CONCLUSION

We strongly urge that CBP rethink the continued use of the I-94 and I-94W forms. If indeed they must stay in use until the APIS Pre-departure Final Rule is operational, we urge that no new data elements be added to the forms.

Respectfully submitted,



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