

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 600 respondents at 10 minutes multiplied by 365 days.

(6) *An estimate of the total of public burden (in hours) associated with the collection:* Approximately 36,500 burden hours.

If additional information is required contact Richard A. Sloan, Director, (202) 514-3291.

List of Subjects

8 CFR Part 217

Air carriers, Aliens, Maritime carriers, Passports and Visas.

8 CFR Part 231

Air carriers, Aliens, Maritime carriers, Reporting and recordkeeping requirements

8 CFR Part 251

Vessels, Alien crewmembers, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, chapter I of the title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 217—VISA WAIVER PROGRAM

1. The authority citation for part 217 continues to read as follows:

Authority: 8 U.S.C. 1103, 1187; 8 CFR part 2.

2. Section 217.7 is revised to read as follows:

§ 217.7 Electronic data transmission requirement.

(a) An alien who applies for admission under the provisions of section 217 of the Act after arriving via sea or air at a port-of-entry will not be admitted under the Visa Waiver Program unless the carrier transporting such an alien electronically transmits passenger arrival and departure data in accordance with 8 CFR 231.1, for each Visa Waiver Program passenger being transported on the aircraft or vessel.

(b) For those carriers that fail to submit electronic arrival and departure manifests electronically, the Service will evaluate the carrier's compliance with immigration requirements as a whole. The Service will inform the carrier of any noncompliance and then may revoke any contract agreements between the Service and the carrier. The carrier may also be subject to fines for violations of manifest requirements or other statutory provisions. The Service will also review each Visa Waiver Program applicant who applies for admission and on a case-by-case basis, may authorize a waiver under current

Service policy and guidelines or deny the applicant admission into the United States.

PART 231—ARRIVAL AND DEPARTURE MANIFESTS

3. The heading for part 231 is revised as set forth above.

4. The authority citation for part 231 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1221, 1228, 1229; 8 CFR part 2.

5. Section 231.1 is revised to read as follows:

§ 231.1 Electronic arrival and departure manifests for passengers and crew.

(a) *Definitions.* As used in this part, the terms:

Appropriate official means the master or commanding officer, or authorized agent, owner, or consignee of a commercial aircraft or vessel.

Commercial aircraft means commercial aircraft as defined in § 286.1(c) of this chapter.

Commercial vessel means commercial vessel as defined in § 286.1(d) of this chapter.

Crewmember has the same meaning as the term crewman defined in section 101(a)(10) of the Act.

Ferry means a commercial vessel that has provisions only for deck passengers and/or vehicles, operating on a short run on a frequent schedule between two points over the most direct water route, and offering a public service of a type normally attributed to a bridge or tunnel. Vessels in coastwise or ocean service, as defined in the regulations of the USCG, 46 CFR part 70, are not ferries and, accordingly, are required to transmit electronic arrival and departure manifests.

Passenger means any person being transported on a commercial aircraft or commercial vessel who is not a crewmember.

United States means United States as defined in section 101(a)(38) of the Act.

(b) *Electronic arrival manifest.* An appropriate official of every commercial vessel or aircraft arriving in the United States from any place outside of the United States shall transmit electronically to the Service a passenger arrival manifest and a crewmember arrival manifest. The electronic arrival manifest must contain the data elements set forth in paragraph (e) of this section for each passenger and crewmember.

(1) For aircraft, an appropriate official must transmit the passenger arrival manifest no later than 15 minutes after the flight has departed from the last foreign port or place. The crewmember arrival manifest must be transmitted

electronically to the Service in advance of departure from the last foreign port or place.

(2) For vessels, an appropriate official must transmit the passenger and crewmember arrival manifests:

(i) at least 96 hours before entering the port or place of destination, for voyages of 96 hours or more;

(ii) at least 24 hours before entering the port or place of destination, for voyages of less than 96 hours but not less than 24 hours; or

(iii) prior to departing the port or place of departure, for voyages of less than 24 hours.

(c) *Electronic departure manifests.* An appropriate official of every commercial vessel or aircraft departing from the United States to any place outside of the United States shall transmit electronically to the Service a passenger departure manifest and a crewmember departure manifest. The electronic departure manifest must contain the data elements set forth in paragraph (e) of this section for each passenger and crewmember.

(1) An appropriate official of a commercial vessel or aircraft must transmit both the passenger departure manifest and the crewmember departure manifest to the Service no later than 15 minutes before the flight or vessel departs from the United States.

(2) If additional passengers or crewmembers board or disembark after the original manifest has been submitted, an appropriate official of the vessel or aircraft concerned will also be required to submit amended or updated passenger and crewmember information electronically to the Service no later than 15 minutes after the flight or vessel has departed from the United States. An appropriate official of the aircraft or vessel concerned must also notify the Service electronically if a flight or voyage has been cancelled after a departure manifest has been submitted.

(d) *Electronic format.*

(1) The arrival and departure manifests for passengers and crewmember must be transmitted electronically to the Service via the USCS, by means of an electronic data interchange system that is approved by the Service.

(2) The passenger arrival and departure manifests must be transmitted separately from the crewmember arrival and departure manifests. To distinguish the two manifests transmitted for a given flight or vessel, the crewmember arrival and departure manifests must have the alpha character "C" included in the transmission to denote that the manifest information pertains to the crewmembers for the flight or vessel.