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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 123

[Docket No. USCBP-2026-0992]

RIN 1651-AB60

Advance Traveler Information for Rail

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: U.S. Customs and Border Protection (CBP) is proposing to require rail carriers to transmit advance electronic traveler information to CBP for any individual (crew and passengers) who is arriving in or departing from the United States on board a train. The rail carrier also would be required to transmit an advance notice of arrival or departure, as applicable, for the train. This rule would enhance security while facilitating legitimate international travel on board trains.

DATES: Comments must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please submit comments, identified by docket number, by the following method:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2026-0992.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents, a plain language summary of the rule, or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Timothy Tyler, Director, External Engagements and Initiatives, Office of Field Operations, U.S. Customs and Border Protection, at (202) 344-3801 or Timothy.A.Tyler@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the notice of proposed rulemaking. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposal.

Comments that will provide the most assistance to CBP will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

II. Executive Summary

A. Purpose of the Rulemaking

The purpose of this proposed rule is to increase security in the rail environment while simultaneously facilitating the legitimate travel of passengers and crew. The current regulations applicable to rail carriers fail to provide CBP with timely information necessary to evaluate in advance the risk of individuals arriving in or departing from the United States by train; or to detect violations relating to immigration, customs, agricultural, or other laws that CBP is responsible for enforcing or administering. The lack of this advance information in the rail environment has left a gap in U.S. national security that terrorists or other criminals could exploit. This risk has increased for rail travel as security measures for other modes of travel, such as air and commercial vessels, have increased.

To respond to this risk, CBP established a program that allows rail carriers to voluntarily transmit to CBP advance electronic information relating to individuals arriving in or departing from the United States on board a train.¹ CBP regularly uses the voluntarily transmitted information to identify rail travelers requiring additional vetting or inspection and to identify violations of immigration, customs, agriculture, and other laws while simultaneously facilitating the travel of legitimate passengers and crew.

Based on this experience with the voluntary program, CBP has determined that the proposed mandatory reporting requirements are necessary to ensure CBP has sufficient and reliable information and the time necessary to perform its border security

¹ DHS/CBP/PIA-001(d), Privacy Impact Assessment for the Advance Passenger Information System Voluntary Rail and Bus Submissions (APIS-VRBS) (2009) (APIS-VRBS PIA); DHS/CBP/PIA-001(h), Privacy Impact Assessment Update for the Advance Passenger Information System (APIS): Land Pre-Arrival System (LPAS) for Bus and Rail (2019), (regarding mobile application for voluntary rail and bus submissions); DHS, DHS/CBP/PIA-001(i), Privacy Impact Assessment for the Advance Passenger Information System (APIS): Voluntary Expansion (2021), available at www.dhs.gov/privacy.

obligations for all international rail traffic. Mandatory reporting of this information would also ensure that CBP receives accurate and timely information in an acceptable format, which is essential for an effective vetting process. By mandating the transmission of this electronic information in advance, CBP would improve its ability to: (1) vet all travelers attempting to cross the U.S. border on board a train; and (2) timely respond to any identified risk or non-compliance with U.S. civil or criminal laws that CBP enforces or administers. CBP also expects that the knowledge that all rail travelers will be vetted in advance would deter travelers planning to use rail travel for illicit purposes.

Additionally, the proposed rule is intended to increase CBP's operational efficiency. Based on CBP's experience with the voluntary program, when the required information is received in advance and the data is accurate and complete, the overall processing time for that train and the travelers on board improves. As a result of increased efficiencies and the additional electronic information received in advance, this rule would enable CBP officers to focus their resources more effectively at ports of entry through improved vetting and targeting.

Finally, this proposed rule would promote CBP's efforts to continue to move toward establishing consistent procedures across all modes of transportation and ports of entry.

B. Legal Authority

The requirements proposed by this rule are authorized pursuant to sections 431 and 433 of the Tariff Act of 1930, as amended (Tariff Act) (19 U.S.C. 1431, 1433). Specifically, section 433(d) of the Tariff Act requires the person in charge of a vehicle

(which includes a train) to transmit to the Secretary of Homeland Security (Secretary),² pursuant to an electronic data interchange system, such information, data, documents, papers, or manifests that the Secretary may require by regulation.³ 19 U.S.C. 1433(d). Section 431(b) of the Tariff Act requires that the master, person in charge of a vehicle (including a train), or an authorized agent of the owner or operator of a vehicle, sign, produce, deliver, or electronically transmit any manifest required by the Secretary in accordance with the regulations. 19 U.S.C. 1431(b).

Section 431(d) of the Tariff Act requires the Secretary to promulgate regulations that specify the form for and the information and data that must be contained in a manifest and prescribe the manner of production for, and the delivery for electronic transmittal of, a manifest. 19 U.S.C. 1431(d).

Finally, section 433(e) of the Tariff Act states that a train arriving in the United States may only depart from the port or place of arrival in accordance with regulations prescribed by the Secretary, unless otherwise authorized by law. 19 U.S.C. 1433(e).

C. Summary of the Proposed Rule

This rule would require rail carriers to transmit an advance notice of arrival or departure, as applicable, for any train that is arriving in or departing from the United States with a traveler on board, including a train that crosses the U.S. border while in transit. The notice of arrival and notice of departure would be due no later than 24 hours

² Sections 403(1) and 411 of the Homeland Security Act of 2002 (Pub. L. 107-296, 116 Stat. 2135, 2178-79), codified at 6 U.S.C. 203(1) and 211, transferred certain functions from the U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security.

³ Sections 431(b) and 433(d) of the Tariff Act (19 U.S.C. 1431(b), 1433(d)) impose requirements on vehicle transportation. The term “vehicle” includes “every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land, but does not include aircraft.” Tariff Act sec. 401(b) (19 U.S.C. 1401(b)). Accordingly, sections 431(b) and 433(d) of the Tariff Act (19 U.S.C. 1431, 1433) apply to rail transportation.

prior to the train's arrival at the U.S. border crossing location on the inbound and outbound trips, respectively.

Additionally, the rule would require rail carriers to transmit advance electronic traveler information to CBP for any individual (including crew and passengers) who will arrive in or depart from the United States on board the train or who crosses the U.S. border while in transit. The required information would include information generally found on a passport or other DHS-approved travel document, including name, date of birth, sex, country of citizenship, country of residence, and DHS-approved travel document type, number, country of issuance and expiration date, if applicable. The information would also include other identifying information such as status on board the train (i.e., conductor, engineer, passenger, crew); complete itinerary of the traveler; address while in the United States for all travelers, except those in transit; alien registration number, if applicable; traveler's passenger name record locator, if available; known traveler number, if applicable; redress number, if applicable; baggage tag information, if applicable; and seat location, including car and seat number, if available. The required information would also include contact phone number with country code and email address, if available.

After the rail carrier transmits the required information, CBP would conduct an initial vetting of the advance information and send a response message to the carrier. The response message would state either that CBP accepted the transmission or that the rail carrier must contact CBP prior to departure. If CBP's vetting of the traveler information does not identify any traveler of concern, then the response message will state that CBP has accepted the transmission. In such a case, no further advance action by the rail

carrier is required. However, if CBP has identified a traveler of concern, then the response message will indicate that the carrier should call CBP and will provide a phone number for the carrier to call. Upon contacting CBP, the carrier and CBP will attempt to resolve any concerns regarding the traveler, such as by confirming whether there are any errors in the transmitted information. If CBP's vetting flags a traveler as having potential security, immigration, customs, or other law enforcement issues, then CBP may recommend that the carrier not board the traveler.

Carriers would have two options for transmitting the required advance electronic information to CBP. Under the first option, rail carriers would transmit the advance electronic information through a CBP-certified transmission system. Under this option, a carrier would be required to submit its electronic transmission system to CBP for testing and CBP would have to certify that the rail carrier's system is capable of communicating with the CBP system for effective transmissions of data and receipt of appropriate messages. Under the second option, rail carriers could transmit the advance electronic information through any CBP-approved electronic data interchange system, such as the Electronic Advance Passenger Information System (eAPIS) web portal,⁴ or any CBP-approved application with manifest capabilities.

D. Summary of Costs and Benefits

CBP evaluated the costs and benefits that would arise from the implementation of this proposed rule. The estimated costs and benefits of the proposed rule are summarized below in Section VI.A. CBP anticipates that during the time period of analysis (2026–

⁴ The eAPIS is an online transmission system that meets all current and future APIS data element requirements for all mandated APIS transmission types. More information on eAPIS generally is available at <https://www.cbp.gov/travel/travel-industry-personnel/apis/eapis-transmission-system> (last accessed May 26, 2026).

2030), this proposed rule would result in costs and benefits to CBP, carriers, passengers, and the public.

The implementation of this proposed rule is expected to result in a total net benefit to passenger rail carriers of \$1,542,478 and \$1,329,350 using a 3-percent and 7-percent discount rate respectively and annualized benefits of \$346,911. Cargo rail carriers are expected to experience net benefits of -\$1,691,802 and -\$1,458,042 using a 3-percent and 7-percent discount rate respectively and annualized net benefits of -\$380,495.⁵ Rail passengers are expected to experience net benefits of \$36,330,246 and \$31,310,416 using a 3-percent and 7-percent discount rate respectively and annualized net benefits of \$8,170,861. CBP expects to experience net benefits of \$278,193 and \$239,754 using a 3-percent and 7-percent discount rate respectively and annualized net benefits of \$62,567. Passengers, passenger rail carriers, cargo rail carriers, and the general public would all benefit from the increased security that would result from this proposed rule. Security benefits remain unquantified in this analysis.

III. Background and Purpose

A. Legal Authority

These proposed regulations are authorized by sections 431 and 433 of the Tariff Act of 1930, as amended (Tariff Act) (19 U.S.C. 1431, 1433).⁶ Specifically, section 433(d) of the Tariff Act requires the person in charge of a vehicle (which includes trains) to transmit to the Secretary of Homeland Security (Secretary), pursuant to an electronic data interchange system, such information, data, documents, papers, or manifests that the

⁵ Negative net benefits reflect a net cost.

⁶ Sections 403(1) and 411 of the Homeland Security Act of 2002 (Pub. L. 107-296, 116 Stat. 2135, 2178-79, codified at 6 U.S.C. 203(1) and 211, transferred certain functions from the U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security.

Secretary may require by regulation.⁷ 19 U.S.C. 1433(d). Section 431(b) of the Tariff Act requires that the master, person in charge of a vehicle, or an authorized agent of the owner or operator of a vehicle, to sign, produce, deliver, or electronically transmit any manifest required by the Secretary in accordance with the regulations. 19 U.S.C. 1431(b).

Section 431(d) of the Tariff Act requires the Secretary to promulgate regulations that specify the form for and the information and data that must be contained in a manifest and prescribe the manner of production for, and the delivery for electronic transmittal of, a manifest. 19 U.S.C. 1431(d). Additionally, a train arriving in the United States may only depart from the port or place of arrival in accordance with regulations prescribed by the Secretary, unless otherwise authorized by law. Tariff Act sec. 433(e) (19 U.S.C. 1433(e)).

These statutory provisions grant the Secretary the authority to issue regulations that require a person in charge of a train to electronically transmit data, documents, papers, or manifests and to specify in the regulations what information and data must be transmitted. The Secretary has delegated its statutory authority relating to these requirements to the Commissioner of U.S. Customs and Border Protection (CBP). *See* DHS, Delegation No. 07010.3, Delegation of Authority to the Commissioner of U.S. Customs and Border Protection II.A (Rev. No. 03.2, Incorporating Change 2) (Dec. 11, 2024).

⁷ Sections 431(b) and 433(d) of the Tariff Act (19 U.S.C. 1431(b), 1433(d)) impose requirements on vehicle transportation. The term “vehicle” includes “every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land, but does not include aircraft.” Tariff Act sec. 401(b) (19 U.S.C. 1401(b)). Accordingly, sections 431(b) and 433(b) of the Tariff Act (19 U.S.C. 1431, 1433) apply to rail transportation.

B. Current Regulations and Need for Rulemaking

CBP intends for this rulemaking to promote the dual goals of increasing security in the rail environment while simultaneously facilitating the legitimate international travel of passengers and crew. CBP developed these proposed regulations based on its experience with a voluntary program that permits rail carriers to transmit advance electronic traveler information to CBP and the successful implementation of similar regulations for air carriers and commercial vessel carriers. This section discusses the current requirements applicable to rail carriers and the insufficiencies of those requirements. This section also describes the voluntary program for rail carriers and the current regulations for air carriers and commercial vessel carriers.

1. Current Regulations for Rail Carriers

Rail carriers operating trains that cross the U.S. border with either Mexico or Canada are subject to part 123 of title 19 of the Code of Federal Regulations (19 CFR part 123). Part 123 includes provisions governing the report of arrival, manifesting, unloading and lading, instruments of international traffic, shipments in transit, commercial traveler's samples, and baggage.

Pursuant to 19 CFR part 123, rail carriers are required to make a report of arrival to CBP for any train arriving in the United States from a foreign location. 19 CFR 123.1(b). The report of arrival must be made upon arrival of the train at the U.S. port of entry. 19 CFR 123.1(b). Individuals arriving in the United States from a foreign location on board a train must report their arrival to CBP once they arrive in the United States. 19 CFR 123.1(a).

Rail carriers are also subject to reporting requirements relating to baggage, merchandise, and commercial cargo traveling on board a train arriving in the United States from a foreign location.⁸ For example, the conductor of a train is required to present to CBP individual car manifests and a train sheet, sometimes called a consist, bridge sheet, or trip sheet, listing each car and showing the car numbers and initials. 19 CFR 123.6. Additionally, baggage or merchandise carried on a train arriving from a foreign location must be listed on an inward foreign manifest and must be presented to a CBP officer at the time the rail carrier makes the report of arrival, unless an exception applies.⁹ 19 CFR 123.3 and 123.5. Finally, for any train arriving in the United States from a foreign location with commercial cargo on board, the rail carrier must electronically transmit certain information concerning the cargo to CBP two hours prior to the cargo's arrival at its first U.S. port of entry. 19 CFR 123.91. The required information generally identifies the rail carrier, the shipper, the consignee, and the train; includes a description of the cargo; and specifies when the train will arrive in the United States. *See* 19 CFR 123.91(d).¹⁰

⁸ *See* 19 CFR part 123, subparts C and D (merchandise), subpart G (baggage), and subpart J (commercial cargo).

⁹ When baggage arrives in the actual possession of a traveler, the traveler's declaration will be accepted in lieu of a manifest. *See* 19 CFR 123.3(b) and 123.62. Merchandise transported from one U.S. port to another U.S. port through Canada or Mexico may be included on an in-transit manifest. *See* 19 CFR part 123, subpart C. Merchandise transported in transit across the United States to Canada or Mexico is governed by 19 CFR part 18.

¹⁰ Specifically, the rail carrier must transmit the following information for all required incoming cargo: the rail carrier identification code; the carrier-assigned conveyance name, equipment number and trip number; the scheduled date and time of arrival at the first port of entry in the United States; the numbers and quantities of the cargo laden on board the train; a precise cargo description; the shipper's complete name and address or identification number; the name and address of the consignee; the place where the rail carrier takes possession of the cargo shipment; any hazardous material code; container numbers or rail car numbers; and the seal numbers for all seals affixed to containers and/or rail cars. 19 CFR 123.91(d).

2. Need for Rulemaking and Voluntary Program

The current regulations applicable to rail carriers fail to provide CBP with timely information necessary to evaluate in advance the risk of individuals arriving in or departing from the United States by train or to detect violations relating to immigration, customs, agricultural, or other laws. For example, the current regulations do not require any advance information relating to any passengers or crew traveling on board the train; rather, CBP collects information about the passengers and crew on the train only after they arrive in the United States and report to a CBP officer, if the rail carrier has not voluntarily provided such information to CBP. The current regulations in 19 CFR part 123 also do not include any reporting requirements for individuals departing the United States on board a train. Although the regulations require rail carriers operating trains with commercial cargo on board to report an estimated time of arrival, see 19 CFR 123.91, there is no equivalent requirement for carriers operating trains without commercial cargo (i.e., most passenger trains). Even for passenger trains operating on schedules, CBP may not be aware of schedule changes and delays.

The lack of this advance information in the rail environment leaves a gap in U.S. national security that terrorists or other criminals could exploit. Without advance, electronic data, CBP's ability to assess risk for the rail industry is severely limited until the train physically arrives at the port of entry. This risk is increased for rail travel as security measures for other modes of travel, such as air and commercial vessels, have increased, potentially diverting illicit activities to less regulated modes of travel, such as by train. An attack on a passenger or cargo train involves the potential for mass casualties, extensive property damage, and negative effects on the economy and

legitimate travel.¹¹ Terrorist attacks on trains throughout the world are well documented, including attacks on passenger trains in Madrid, Spain in 2004, and Mumbai, India in 2006.¹² In North America, two individuals were convicted and sentenced for conspiring to carry out a terrorist attack against a passenger train traveling from New York Penn Station to Toronto, Canada in April 2013.¹³ Since terrorists tend to emulate and repeat methods of prior attacks, this has long been an important area of concern for DHS and CBP.¹⁴

In 2005, CBP established a program that allows rail carriers to voluntarily transmit to CBP manifest information relating to individuals arriving in or departing from the United States on board a train.¹⁵ The purpose of the voluntary program is to respond to the threat in the rail environment and to more effectively identify rail travelers requiring additional vetting or inspection, while facilitating legitimate international travel and trade. This voluntary program requests that rail carriers transmit to CBP information regarding the rail carrier, the train's route, and each individual on board the train.

¹¹ See DHS, Biennial National Strategy for Transportation Security 3, & app. C Surface Security Plan at 55 (Apr. 18, 2023), <https://www.dhs.gov/publication/2023-biennial-national-strategy-transportation-security> (last accessed May 26, 2026).

¹² CBP, Report to Congress on Northern Border Railroad Passenger and Cargo Screening (Mar. 3, 2009); University of Maryland, Global Terrorism Database, GTD ID: 200403110007 (Madrid, Spain); and University of Maryland, Global Terrorism Database, GTD ID: 200607120001 (Mumbai, India).

¹³ CBC News, 2 Via Rail terror plotters sentenced to life in prison (Sept. 23, 2015), <https://www.cbc.ca/news/canada/toronto/via-rail-terror-sentences-1.3240050> (last accessed May 26, 2026).

¹⁴ See e.g., Section 1523 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53, Aug. 2, 2007); CBP, Report to Congress on Northern Border Railroad Passenger and Cargo Screening (Mar. 3, 2009); DHS, Northern Border Threat Analysis Report --Public Summary (2017), available at <https://www.dhs.gov/publication/northern-border-threat-analysis-report> (last accessed May 26, 2026); DHS, Biennial National Strategy for Transportation Security, app. C Surface Security Plan (Apr. 18, 2023), <https://www.dhs.gov/publication/2023-biennial-national-strategy-transportation-security> (last accessed May 26, 2026).

¹⁵ DHS/CBP/PIA-001(d), Privacy Impact Assessment for the Advance Passenger Information System Voluntary Rail and Bus Submissions (APIS-VRBS) (2009) (APIS-VRBS PIA); DHS/CBP/PIA-001(h), Privacy Impact Assessment Update for the Advance Passenger Information System (APIS): Land Pre-Arrival System (LPAS) for Bus and Rail (2019), (regarding mobile application for voluntary rail and bus submissions); DHS, DHS/CBP/PIA-001(i), Privacy Impact Assessment for the Advance Passenger Information System (APIS): Voluntary Expansion (2021), available at www.dhs.gov/privacy.

Specifically, CBP requests the following data: rail carrier's name, point of contact, carrier's telephone number and email address, carrier code, trip identifier, departure/arrival location code, and estimated time of departure/arrival. *See* APIS-VRBS PIA at 2-3. Additionally, CBP requests the following data elements for each individual traveling on board the train: name; date of birth; sex; DHS-approved travel document type, number, and issuing country, if required; traveler status (passenger or crew); address, if available; and departure or arrival code. *Id.* This information is generally referred to as manifest information or as an arrival or departure manifest. *Id.* at 1.

CBP regularly uses the voluntarily transmitted information to identify rail travelers requiring additional vetting or inspection and to identify violations of immigration, customs, agriculture, and other laws while simultaneously facilitating the international travel of legitimate passengers and crew. *Id.*

One rail carrier currently voluntarily transmits information to CBP through this voluntary program. *Id.* However, because the transmission of the information is not mandatory and there are no penalties for noncompliance, the information transmitted is not always complete, valid, timely, or in an electronic format. When the transmitted information is incomplete or inaccurate, CBP officers must update the information when inspecting the train at the U.S. port of entry or may not use the advance information for processing at all. Additionally, not all carriers currently participate in the voluntary program. Making the reporting mandatory, along with the requirement for rail carriers to verify travel documents against transmitted information, will ensure that CBP receives accurate and timely information, which is essential for an effective vetting process. This improved data quality directly contributes to more reliable security assessments.

Based on this experience, CBP has determined that the proposed mandatory reporting requirements are necessary to ensure CBP has sufficient and reliable information and the time necessary to perform its border security obligations for all international rail traffic. Mandatory reporting of this information would also ensure that CBP receives accurate and timely information, in an accessible electronic format, which is essential for effective advance vetting processes. By mandating the transmission of this information in advance, CBP would improve its ability to: (1) pre-vet all travelers attempting to cross the U.S. border on board a train; and (2) timely respond to any identified risk or non-compliance with U.S. civil or criminal laws enforced or administered by CBP. This means that if a traveler of concern is identified during vetting, CBP has sufficient time to investigate, resolve concerns, or prepare for an interdiction, rather than reacting in real-time at the border, which can be less efficient and potentially more dangerous. CBP also expects that the knowledge that all rail travelers will be vetted in advance would deter travelers planning to use rail travel for illicit purposes.

Accordingly, this proposed rule would support CBP's core missions of border security, including screening, reviewing, identifying, and prioritizing the inspection of travelers arriving in and departing from the United States; detecting, responding to, and interdicting terrorists, drug smugglers and traffickers, human smugglers and traffickers, and other persons who may undermine the security of the United States; and ensuring the interdiction of persons illegally entering the United States. *See, e.g.*, 6 U.S.C. 211(c).

Additionally, the proposed rule is intended to increase efficiency in CBP's ability to process individuals arriving in or departing from the United States on board a train.

Based on the experience with the voluntary program, when the required information is received in advance and the data is accurate and complete, the overall processing time for that train and the travelers on board improves. With advance information, CBP officers can access the data prior to traveler arrival and use the information to make better informed admissibility and enforcement decisions. By identifying high-risk individuals in advance, CBP officers can focus their resources more effectively at ports of entry. This allows for quicker processing of legitimate travelers while dedicating more attention to those who require additional scrutiny, thereby optimizing security operations. Additionally, by mandating the advance information, CBP would improve the accuracy and completeness of the traveler data so that advance technologies could be used effectively. For example, when CBP has access to advance traveler information, CBP is able to use the Traveler Verification Service to build galleries of photographs based on arriving or departing individuals, which facilitates traveler processing.¹⁶ CBP processes large volumes of travelers at the rail ports of entry every day, and increasing efficiencies for CBP train traveler operations would result in benefits to all entities that are processed by CBP.

Finally, this proposed rule would promote CBP's efforts to continue to move toward establishing consistent procedures across all modes of transportation and ports of entry. The Advance Passenger Information System (APIS) requirements currently in effect for passengers and crew arriving or departing on board aircraft and commercial vessels, described in Section III.B.3. of this document below, have been successful at promoting both security and the international travel of legitimate passengers, and CBP

¹⁶ See DHS/CBP/PIA-056, Privacy Impact Statement for the Traveler Verification Service 5 (2018), available at www.dhs.gov/privacy.

proposes to implement similar requirements for other modes of travel. In addition to this rule, CBP also expects to propose similar reporting requirements for cross-border bus travel. CBP's goal is to ensure a consistent level of security across all modes of cross-border transportation.

In conclusion, CBP is proposing mandatory advance reporting requirements for passengers and crew arriving and departing the United States on board a train. CBP would use the information to identify high-risk passengers and crew who may: pose a risk to border or public security; be a terrorist or suspected terrorist or affiliated with or suspected of being affiliated with terrorists or terrorist organizations; be a person of interest; otherwise be engaged in activity in violation of U.S. law; be the subject of wants or warrants; or be inadmissible, while simultaneously facilitating the international travel of legitimate passengers and crew.

3. Current Regulations for Commercial Air Carriers, Private Aircraft and Commercial Vessel Carriers

In order to address the concerns identified above in the rail environment, CBP is proposing reporting requirements for rail carriers that are very similar to the regulations currently applicable to air carriers and commercial vessel carriers.¹⁷ Accordingly, a brief summary of those requirements follows.

In response to the September 11, 2001, terrorist attacks, CBP developed regulations requiring commercial air carriers or commercial vessels to electronically transmit prior to departure information relating to individuals traveling to or from the

¹⁷ For regulations relating to commercial aircraft, see 19 CFR 122.49a, 122.49b, 122.49c, 122.75a, and 122.75b. For regulations relating to commercial vessels, see 19 CFR 4.7b and 4.64.

United States on board commercial air carriers or commercial vessels.¹⁸ CBP also developed similar regulations requiring private aircraft pilots to electronically transmit information for individuals travelling on board private aircraft arriving in and departing from the United States. *See* 19 CFR 122.22.

Currently, commercial air carriers and private aircraft pilots are required to electronically transmit arrival and departure manifests to CBP at specified times prior to departing to or from the United States. 19 CFR 122.49a, 19 CFR 122.75a and 19 CFR 122.22. The advance arrival and departure information must contain information regarding each individual (passengers, crew, and non-crew) on board the aircraft. Although the required information varies depending on whether the individual is a passenger, crew, or non-crew, the arrival and departure manifests must generally contain: the name; date of birth; sex; citizenship; status on board the aircraft; and DHS-approved travel document type, number, and expiration date, as well as information regarding the flight, such as the date of arrival or departure. *See* 19 CFR 122.49a, 122.49b, 122.75a, 122.75b.

Commercial air carriers and private aircraft pilots may transmit the manifest information through a CBP-certified electronic transmission system or through a CBP-approved electronic transmission system, such as the Electronic Advance Passenger

¹⁸ These regulations were implemented pursuant to several statutory mandates including, but not limited to, section 115 of the Aviation and Transportation Security Act, Pub. L. 107-71, 115 Stat. 597, 623 (2001) (adding 49 U.S.C. 44909(c)); section 402 of the Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. 107-173, 116 Stat. 543, 557 (amending section 231 of the Immigration and Nationality Act of 1952, Pub. L. 82-414, 66 Stat. 163 (8 U.S.C. 1221) regarding passenger manifests); and section 4012 of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, 118 Stat. 3638, 3717 (amending 49 U.S.C. 44909(c)); and pursuant to certain authorities administered by the Transportation Security Administration (TSA) (49 U.S.C. 114; 49 CFR parts 1544, 1546, and 1550). For additional information regarding the statutory authority for the air and commercial vessel regulations, see 70 FR 17820 (Apr. 7, 2005) and 72 FR 48320 (Aug. 23, 2007).

Information System (eAPIS). Upon receipt of timely transmitted arrival or departure information,¹⁹ CBP performs enforcement and security queries against various multi-agency law enforcement databases and the terrorist watchlist. CBP then responds to the carrier with instructions regarding the clearance of the aircraft (for transmissions made through a non-interactive CBP-approved transmission method, such as eAPIS) or each individual (for transmission made through a CBP-certified electronic transmission method).

Commercial vessel carriers (other than ferries) must transmit to CBP advance electronic data for each individual on board the vessel. *See* 19 CFR 4.7b and 4.64. Although the information required is different for arrivals and departures, the carrier must generally transmit the following information for each individual on board: full name; date of birth; sex; citizenship; country of residence; status on board the vessel; travel document type, number, country of issuance, and expiration date; alien registration number, where applicable; passenger name record locator, if available; details of each passenger and crew's itinerary; and vessel information. *See* 19 CFR 4.7b(b)(3) and 4.64(b)(3). The vessel carriers must transmit the information prior to arriving in or departing from the United States in order to provide CBP with the time necessary to process the information.²⁰ Commercial vessels transmit passenger and crew manifests through the U.S. Coast Guard electronic Notice of Arrival/Departure System (eNOA/D),

¹⁹ Commercial air carriers are required to electronically transmit arrival and departure manifest information 30 minutes prior to the securing of the aircraft or up to the securing of the aircraft, depending on the type of transmission. *See* 19 CFR 122.49a(b)(2) and 19 CFR 122.75a(b)(2).

²⁰ Commercial vessels arriving in the United States must transmit arrival manifest information between 24 hours and 96 hours prior to the vessel's entry at a U.S. port or place of destination, depending on the length of the voyage. *See* 19 CFR 4.7b(b)(2). Commercial vessels departing from the United States must transmit departure manifest information no later than 60 minutes prior to departure from the United States. *See* 19 CFR 4.64(b)(2).

the electronic data interchange system approved by CBP for use by commercial vessel carriers. *See* 72 FR 48320, 48320.

These existing regulations have been effective at mitigating risks and detecting violations of immigration, customs, agricultural, and other laws in the air and sea environment by providing CBP with the information and time necessary to identify high-risk passengers on aircraft or commercial vessels and to take appropriate action. For that reason, CBP is proposing in this document to require similar reporting requirements in the rail environment.

IV. Proposed Requirements

This document proposes to require rail carriers to transmit to CBP an advance electronic transmission of information for any train arriving in or departing from the United States, including a train in transit, with a traveler on board (that is, any individual, including passengers and crew, who will cross the U.S. border on board the train). Specifically, proposed new subpart K of 19 CFR part 123, titled Advance Traveler Information for Rail, would add eight new sections to the regulations, requiring rail carriers to transmit an advance notice of arrival or notice of departure, as applicable, for the train and advance traveler information for each traveler crossing the U.S. border on board the train. After the rail carrier transmits the required information, CBP would conduct an initial vetting of the advance information and send a response message to the carrier. The response message would state either that CBP has accepted the transmission or that the rail carrier must contact CBP prior to departure. CBP also proposes conforming amendments to § 123.0, Scope, and § 123.6, Train sheet for arriving railroad trains, in 19 CFR part 123. Each new proposed requirement is explained in detail below.

A. *Definitions*

Proposed 19 CFR 123.100 provides definitions for terms as they are used in the proposed new subpart K. Specifically, for purposes of this subpart the terms *conductor*, *crew*, *depart* and *departure*, *DHS-approved travel document*, *emergency*, *engineer*, *passenger*, *station*, *stop*, *train*, *traveler*, and *United States* are defined as set out in the proposed regulatory text below. For example, proposed 19 CFR 123.100 defines the term “train,” for purposes of proposed subpart K, to include any conveyance being used to provide railroad transportation for commercial or private purposes, including cargo conveyances and passenger conveyances. Additionally, proposed 19 CFR 123.100 defines the term “traveler,” for purposes of proposed subpart K, to mean any individual, including passengers and crew, who will cross the U.S. border while on board a train that will arrive in the United States from a foreign location or depart the United States for a foreign location, including a train that will cross the U.S. border while in transit. The terms “depart” and “departure” would mean the point at which the train doors are closed, and the train leaves the last station or stop prior to crossing the U.S. border on either an inbound or outbound trip. Emergency would be defined to mean an urgent situation due to a mechanical, medical, or security problem, natural or manmade disasters, evacuations due to chemical, biological, or radiological events, or the transport of emergency responders to such incidents. These definitions were developed to be consistent with the existing APIS regulations for commercial air, private air, and commercial sea carriers, with adjustments made to reflect the rail industry. Additionally, the definition for “emergency” is based on CBP’s experience with the voluntary program for rail carriers and existing APIS regulations for other travel modes.

B. Advance notice of arrival or departure for all trains with a traveler on board

Proposed 19 CFR 123.101 would require a rail carrier to transmit to CBP an advance notice of arrival or departure for any train with a traveler on board arriving in the United States from a foreign location or departing the United States for a foreign location, including any train that crosses the U.S. border while in transit, unless the U.S. military exemption under proposed 19 CFR 123.105 applies.

Proposed 19 CFR 123.101(a) would generally require the rail carrier to transmit the notice of arrival or departure through a CBP-certified electronic transmission system or a CBP-approved electronic data interchange system in accordance with proposed 19 CFR 123.104. Proposed 19 CFR 123.101(a) provides that the rail carrier may authorize another party to submit the notice of arrival or departure on the rail carrier's behalf, while also providing that the rail carrier would remain responsible at all times for the submission, accuracy, timeliness, and completeness of the transmitted information. Additionally, section 123.101(b) would require a rail carrier to electronically transmit the notice of arrival or notice of departure no later than 24 hours prior to the train's arrival at the U.S. border crossing location.

The advance notice of arrival and notice of departure would be required to contain the following data elements, pursuant to proposed 19 CFR 123.101(c): the rail carrier's code (as provided by CBP); the trip number; the train number; car numbers in order, if more than one car; place of origination (or code as provided by CBP); estimated local time and date that the train will leave from the origination station or stop; place of U.S. border crossing (or code as provided by CBP); estimated local time and date of arrival at

the U.S. border crossing location; place of final destination (or code as provided by CBP); estimated local time and date of arrival at the final destination; complete itinerary, including all scheduled stops; the full name and phone number of a 24-hour emergency point of contact, who must be an individual knowledgeable about the particular trip reported in the notice of arrival or departure; and the rail carrier's name and address.

CBP's purpose in collecting this information would be to be able to identify and locate a train if CBP identified a concern with a particular traveler. CBP would link the information provided in the notice of arrival or departure with the advance traveler information that would also be required under 19 CFR 123.102 and 19 CFR 123.103 so that CBP could quickly locate any traveler of concern.

Proposed 19 CFR 123.101(d) sets forth the requirements for transmitting changes to an advance notice of arrival or departure. Specifically, proposed 19 CFR 123.101(d)(1) provides that each time any of the information in an advance notice of arrival or departure changes after transmission to CBP and prior to the train crossing the U.S. border, the rail carrier would be required to transmit the new or revised information to CBP. The new or revised information would be due prior to the train leaving the station or stop at which the rail carrier received the updated information or, if the information was received between stations or stops, no later than when the train leaves the next station or stop after receiving the information. If the rail carrier receives new or revised information after departure but prior to the train crossing the U.S. border, then the rail carrier would be required to transmit such updated information to CBP prior to crossing the U.S. border.

Proposed 19 CFR 123.101(d)(2) details that if there is a change of 30 minutes or more to the estimated time of arrival at the U.S. border crossing location on either the inbound or outbound trip, the rail carrier would be required, in addition to transmitting the updated estimated time of arrival, to contact CBP at the border crossing location to confirm that CBP resources would be available to inspect the train. The carrier must contact CBP either prior to departure or, if the change arises after departure, prior to arrival at the U.S. border crossing location. If CBP does not have resources available to inspect the train, the train would not be inspected immediately upon arrival, consistent with current practices.

C. Advance electronic information required for all travelers arriving in the United States on board a train

Proposed 19 CFR 123.102 would require a rail carrier to electronically transmit advance traveler information to CBP for all travelers on board a train arriving in the United States from a foreign location, including any train that crosses the U.S. border while in transit, unless the U.S. military exemption under proposed 19 CFR 123.105 applies. Proposed 19 CFR 123.102(a) would require the rail carrier to electronically transmit the advance information through a CBP-certified transmission system or a CBP-approved electronic data interchange system in accordance with proposed 19 CFR 123.104. Proposed 19 CFR 123.102(a) provides that the rail carrier may authorize another party to submit the advance information on the rail carrier's behalf, while also providing that the rail carrier would remain responsible at all times for the submission, accuracy, timeliness, and completeness of the transmitted information.

Proposed 19 CFR 123.102(b) provides that the required information would be due no later than 60 minutes prior to the train's departure. The rail carrier would be required to transmit the following information, set forth in proposed 19 CFR 123.102(c), for each traveler on board the train: full name (last, first, and, if available, middle); date of birth; sex; country of citizenship; country of residence; DHS-approved travel document type, number, country of issuance, and expiration date, if required;²¹ traveler's status on board the train (i.e., conductor, engineer, passenger, crew); complete itinerary of the traveler, including origination and destination station or stop; address while in the United States, including a number and street, city, state, and zip code (not required for travelers who are in transit to a location outside the United States); alien registration number, if applicable; traveler's passenger name record locator, if available; known traveler number, if applicable; redress number, if applicable;²² baggage tag information, if applicable; seat location, including car and seat number, if available; contact phone number, including country code ; and email address. The carrier would be required to request a contact phone number and email address from each traveler, and if the traveler provides one, the carrier must transmit it to CBP. The carrier is not required to transmit a contact phone number or email address for the traveler if the traveler does not provide the information to the carrier.

The transmitted information would provide CBP with the information necessary to perform accurate and sufficient vetting of the travelers prior to their arrival in or

²¹ The DHS-approved travel document information would be required for the majority of travelers but may not be required in certain circumstances. If a DHS-approved travel document is not required for a traveler, the rail carrier would not be required to transmit the DHS-approved travel document type, number, country of issuance, or expiration date.

²² A redress number is a number assigned by DHS to an individual processed through the redress procedures described in 49 CFR part 1560, subpart C.

departure from the United States. As stated above, CBP would use the information collected from the rail carriers to identify high-risk passengers and crew who may pose a risk to border or public security, may be a terrorist or suspected terrorist or affiliated with or suspected of being affiliated with terrorists or terrorist organizations, may be a person of interest, may otherwise be engaged in activity in violation of U.S. law, may be the subject of wants or warrants, or may be inadmissible. CBP has identified the above-listed information as necessary to identify such travelers.

Currently, CBP collects some of the information required by this rule from the travelers upon their arrival at the port of entry.²³ Rail carriers generally require travelers to provide similar information as part of the carrier's ticket booking process, , including full name, email address, and phone number. Some carriers also collect additional details from travelers when booking a ticket, including passport or other travel document details such as date of birth and sex. For many of the data elements, rail carriers have the information, such as traveler's status on board, complete itinerary, baggage tag information, and seat location. Rail carriers, despite having many of these data elements in electronic format, are not currently sharing that information with CBP (except through the voluntary program). CBP is proposing to require rail carriers to both collect and transmit information electronically and in advance of departure to ensure that CBP has the relevant information at the time and in the format that is necessary to conduct sufficient vetting and to respond to any potential situation.

²³ Generally, CBP collects biographical information from travelers upon their arrival at the port of entry such as name, date of birth, passport number, country of residence, and address in the United States. CBP does not generally collect information relating to the traveler's train trip, such as estimated time of arrival, itinerary, seat number, or baggage information. CBP also does not generally collect traveler's phone numbers or email address during inspection.

Proposed 19 CFR 123.102(d) sets forth that after transmission of the required information, CBP would conduct vetting of the transmitted traveler information and transmit a response message to the rail carrier. The response message will state either that CBP accepted the transmission or that the rail carrier must contact CBP prior to departure. This response message serves as confirmation that the required electronic transmission was received by CBP.

If CBP's vetting of the traveler information does not identify any concerns, then the response message back to the rail carrier would state that CBP has accepted the transmission. In such a case, no further action by the rail carrier would be required. However, if CBP were to identify a traveler as having potential security, immigration, customs, or other law enforcement issues, then the response message would indicate that the carrier should call CBP and would provide a phone number for the carrier to call. Upon contacting CBP, the carrier and CBP could determine, for example, whether there are any typographical errors in the traveler information because incorrect information could result in an inaccurate vetting result. If potential security, immigration, customs, or other law enforcement issues remain, then CBP may recommend that the carrier not transport the traveler on board the train, although the rail carrier would retain the authority to decide whom to transport on board the train.

The response message process would be necessary to ensure the integrity of the transmitted information. CBP needs accurate traveler information, before the train arrives at the port of entry, so that CBP can prepare for any security or enforcement concerns presented by a particular traveler. CBP's vetting of the travelers prior to departure may also be relevant to the rail carriers, who have an interest in protecting the

security of their travelers. Additionally, communication between the carrier and CBP improves the accuracy of the information transmitted because it provides the carriers with an opportunity to correct any potential errors in the transmission.

Proposed 19 CFR 123.102(e) sets forth the requirements for transmitting changes to the traveler data to CBP. Specifically, proposed 19 CFR 123.102(e)(1) would require that each time any of the required information changes after transmission to CBP and prior to the train crossing the U.S. border, including if travelers get on or off the train prior to crossing the U.S. border, the rail carrier would be required to electronically transmit the new or revised information. The rail carrier would be required to transmit the new or revised information no later than when the train leaves the station or stop during which the rail carrier received the new or revised information. If the carrier receives information between station or stops, the carrier would be required to transmit it to CBP no later than when the train leaves the next station or stop after receiving the information. If the rail carrier receives new or revised information after departure but prior to the train crossing the U.S. border, then the rail carrier would be required to transmit the new or revised information to CBP prior to crossing the U.S. border. Proposed 19 CFR 123.102(e)(2) provides that upon receipt of the new or revised information, CBP would vet the updated information and transmit a response message to the rail carrier. The response message will state either that CBP has accepted the transmission or that the rail carrier must contact CBP prior to departure or crossing the U.S. border, as detailed above.

Proposed paragraph 123.102(f) provides that the rail carrier would be responsible for comparing the travel documents presented by the traveler with the travel document

information it is transmitting to CBP in order to ensure that the information matches the information contained on the travel document, the document appears to be valid for travel purposes, and the traveler is the person to whom the travel document was issued. This requirement would ensure that CBP receives accurate and timely information, which is essential for an effective vetting process. This improved data quality would directly contribute to more reliable security assessments.

D. Advance electronic information required for all travelers departing from the United States on board a train

Proposed 19 CFR 123.103 would require a rail carrier to electronically transmit advance traveler information to CBP for all travelers on board a train departing from the United States for any location outside the United States, including any train that crosses the U.S. border while in transit, unless subject to the military exemption under proposed 19 CFR 123.105. Proposed 19 CFR 123.103(a) would require the rail carrier to transmit the advance information through a CBP-certified transmission system or a CBP-approved electronic data interchange system in accordance with proposed 19 CFR 123.104. Proposed 19 CFR 123.103(a) provides that the rail carrier may authorize another party to submit the advance information on the rail carrier's behalf, while also providing that the rail carrier would remain responsible at all times for the submission, accuracy, timeliness, and completeness of the transmitted information.

Proposed 19 CFR 123.103(b) provides that the required information would be due no later than 60 minutes prior to the train's departure. The data elements required for departing travelers would be the same as those required for arriving travelers. Specifically, the rail carrier would be required to transmit the following information, as

set forth in proposed 19 CFR 123.103(c), for each traveler on board the train: full name (last, first, and, if available, middle); date of birth; sex; country of citizenship; country of residence; DHS-approved travel document type, number, country of issuance, and expiration date, if required;²⁴ traveler's status on board the train (i.e., conductor, engineer, passenger, crew); complete itinerary of the traveler, including origination and destination station or stop; address while in the United States including a number and street, city, state, and zip code (not required for travelers who are in transit to a location outside the United States); alien registration number, if applicable; traveler's passenger name record locator, if available; known traveler number, if applicable; redress number, if applicable;²⁵ baggage tag information, if applicable; seat location, including car and seat number, if available; contact phone number, including country code; and email address. As with arrivals, the carrier must request a phone number and email address from the traveler but is not required to transmit a phone number with country code or email address if the traveler does not provide it.

CBP's purpose in collecting this information would be the same as stated above for arriving passengers, that is, to enable CBP to perform accurate and sufficient vetting of the information and identify travelers of concern prior to departure from the United States. Currently, CBP can collect biographical information from departing travelers at the port of entry at the time of departure. Rail carriers generally collect similar information electronically from travelers, but they currently are not sharing it with CBP

²⁴ As noted above, the DHS-approved travel document information would be required for the majority of travelers but may not be required in certain circumstances. If a DHS-approved travel document is not required for a traveler, the rail carrier would not be required to submit the DHS-approved travel document information.

²⁵ A redress number is a number assigned by DHS to an individual processed through the redress procedures described in 49 CFR part 1560, subpart C.

(except through the voluntary program). CBP is proposing to require rail carriers to both collect and transmit information electronically and in advance of departure to ensure that CBP has the relevant information at the time and in the format that is necessary to conduct vetting and to respond to any potential situation.

Proposed 19 CFR 123.103(d) sets forth that after transmission of the required information, CBP would conduct vetting of the transmitted traveler information and transmit a response message to the rail carrier stating either that CBP has accepted the transmission or that the rail carrier must contact CBP prior to departure. CBP's process of responding to the transmission would be the same as stated above for arriving passengers. This response message serves as confirmation that the required electronic transmission has been received by CBP.

Proposed 19 CFR 123.103(e) sets forth the requirements for transmitting changes to the traveler data to CBP for departing trains. Specifically, proposed 19 CFR 123.102(e)(1) would require that each time any of the required information changes after transmission to CBP and prior to the train crossing the U.S. border, including if travelers get on or off the train prior to crossing the U.S. border, the rail carrier would be required to electronically transmit the new or revised information to CBP. The rail carrier would be required to transmit the new or revised information no later than when the train leaves the station or stop during which the rail carrier received the new or revised information. If the carrier receives information between station or stops, it must transmit the new or revised information to CBP no later than when the train leaves the next station or stop after receiving the information. If the rail carrier receives new or revised information after departure but prior to the train crossing the U.S. border, then the rail carrier would

be required to transmit the new or revised information to CBP prior to crossing the U.S. border. Proposed 19 CFR 123.103(e)(2) provides that upon receipt of the new or revised information, CBP would vet the updated information and transmit a response message to the rail carrier. The response message would state either that CBP has accepted the transmission or that the rail carrier must contact CBP prior to departure or prior to crossing the U.S. border, as detailed above.

Proposed paragraph 123.103(f) provides that the rail carrier collecting the required information would be responsible for comparing the travel documents presented by the traveler with the travel document information it is transmitting to CBP in order to ensure that such information matches the information contained on the travel documents, the documents appear to be valid for travel purposes, and the traveler is the person to whom the travel documents were issued. As with arrivals, this requirement would ensure that CBP receives accurate and timely information, which is essential for an effective vetting process. This improved data quality would directly contribute to more reliable security assessments.

E. Transmission to CBP

Proposed 19 CFR 123.104 would provide rail carriers with two options for transmitting the required advance electronic information to CBP. Under the first option, provided in proposed 19 CFR 123.104(a), rail carriers would transmit the advance electronic information through a CBP-certified electronic transmission system. Under this option, a carrier would be required to submit its electronic transmission system to CBP for testing and CBP would have to certify that the rail carrier's system is capable of communicating with the CBP system for effective transmissions of data and receipt of

appropriate messages. Transmissions made via a CBP-certified electronic transmission system may be transmitted as interactive individual submissions, interactive batch submissions, or non-interactive batch submissions. If a rail carrier uses an interactive transmission method (batch or individual), the rail carrier would be required, in addition to the other transmissions proposed in this rule, to transmit to CBP a message that identifies all travelers that boarded the train. The message would be required to identify the travelers by a unique identifier assigned by the rail carrier or by specific traveler data, such as the traveler's full name. This is commonly referred to as a "close-out" message. The close-out message would be due to CBP no later than 30 minutes after departure.

Close-out messages are necessary specifically for interactive transmission because the carrier can send traveler information one-by-one and get almost immediate responses from CBP. For non-interactive transmission, the carrier sends all the information in one batch and receives a single response message. In certain situations, when a carrier is transmitting traveler information interactively, a traveler that books a ticket but does not board the train would appear on the manifest, and, therefore, would appear to CBP to be on the train. The close-out message ensures that only those travelers that boarded the train are included in the manifest.

Under the second option, provided in proposed 19 CFR 123.104(b), rail carriers would transmit the advance electronic information through a CBP-approved electronic data interchange system. Currently, CBP has approved transmissions through the Electronic Advance Passenger Information System (eAPIS) web²⁶ portal, and through the

²⁶ The eAPIS is an online transmission system that meets all current and future APIS data element requirements for all mandated APIS transmission types. More information on eAPIS generally is available at <https://eapis.cbp.dhs.gov/eapis/help.do> (last accessed May 26, 2026).

CBP-approved application with manifest capabilities. Transmissions through eAPIS are non-interactive transmissions. In order for CBP to approve an electronic data interchange system, CBP must be able to test the system to ensure it can effectively transmit data and receive messages and meet all applicable DHS-established security and connectivity standards.

Additionally, on a limited case-by-case basis and upon request by a rail carrier, CBP may permit a rail carrier to submit the required information telephonically or through another approved alternative procedure when unforeseen circumstances preclude transmission of the information electronically, as set forth in proposed paragraph 123.104(c). Under such circumstances, CBP would manually enter the information provided by the rail carrier, vet the information, and provide a response message to the carrier. CBP's response message could be received electronically or through another alternative procedure such as telephonically.

F. Exemption for certain U.S. military

Proposed 19 CFR 123.105 would provide an exemption for rail carriers from reporting certain U.S. military personnel. Under this section, advance electronic information otherwise required by part 123, subpart K, would not be required for active-duty U.S. military personnel traveling on orders as travelers on board a U.S. Department of War-chartered train.

G. Penalties

Violations of the advance notice of arrival or departure or advance traveler information requirements provided for in this part may result in certain civil penalties, as provided in section 436 of the Tariff Act of 1930, as amended (19 U.S.C. 1436), in

addition to other penalties applicable under other provisions of law. Furthermore, any conveyance used in connection with any such violation is subject to seizure and forfeiture. Criminal penalties would also be authorized under section 436 of the Tariff Act, as amended (19 U.S.C. 1436), for intentional violations or when prohibited merchandise is found on board, as detailed in proposed 19 CFR 123.106(b).

H. Emergencies

Proposed 19 CFR 123.106(c) provides that in the case of non-compliance with any of the reporting requirements of part 123, subpart K, due to an emergency, CBP would take into consideration the circumstances of the emergency and whether, but for the emergency, the carrier would have been capable of making the required transmissions. The term “emergency” would mean an urgent situation due to a mechanical, medical, or security problem, including natural or manmade disasters, evacuations due to chemical, biological, or radiological events, or the transport of emergency responders to such incidents. *See* proposed 19 CFR 123.100.

I. Changes to the train sheet for trains arriving in the United States without commercial cargo on board

Under the current language of 19 CFR 123.6, a conductor of a train arriving from Canada or Mexico is required to present to the CBP officer at the port of arrival individual car manifests and a train sheet, sometimes called a consist, bridge sheet, or trip sheet, listing each car and showing the car numbers and initials. This proposed rule would require rail carriers to transmit advance electronic data that is the same or substantially similar to the information currently required by 19 CFR 123.6 as referenced below. For example, the advance notice of arrival or departure proposed by this rule

would provide CBP with sufficient information, including car numbers and the train number to identify the train and the relevant trip. In order to avoid requiring carriers to submit the same information multiple times in different formats, CBP is proposing to amend 19 CFR 123.6 by adding a provision which states that a conductor of a train arriving from Canada or Mexico without commercial cargo on board would not be required to present individual car manifests or a train sheet if the carrier has transmitted the information required by subpart K of this part for that train in accordance with those provisions. A train consist will continue to be required for trains with commercial cargo on board because CBP continues to rely on the consist as part of the commercial cargo manifest process. *See, e.g.*, 19 CFR 123.91(a). CBP is not at this time proposing changes to the requirements related to manifest information for commercial cargo.

J. Severability.

CBP has authority to implement this proposed rule and the exercise of its authority reflects sound policy. To protect CBP's goals for this rule, CBP is proposing regulatory text stating that the provisions be severable so that, if necessary, the regulations may continue to function even if a provision is rendered inoperable. The purpose of the severability clause is to ensure that, in the event a specific provision of the rule is invalidated or otherwise unenforceable due to legal challenge, the remaining provisions can continue to operate independently to the extent possible. This approach is consistent with standard rulemaking practices and is intended to preserve the functionality of the rule while minimizing disruption.

Accordingly, in the event that any portion of a subsequent final rule were to be declared invalid or unenforceable, CBP intends for the remaining aspects of the rule to be

severable. Although the provisions collectively will strengthen the overall security of international rail travel, they each operate independently to serve this purpose as well. For example, the requirements for arriving travelers could operate independently from the requirements for departing travelers, and vice versa.

V. Related Rulemakings

CBP is engaging in multiple rulemakings to implement APIS requirements across different modes of travel. For example, CBP published a notice of proposed rulemaking (Advance Passenger Information System: Electronic Validation of Travel Documents, 88 FR 7016 (Feb. 2, 2023)), which proposed to amend the APIS regulations applicable to commercial air carriers. Additionally, CBP is concurrently drafting a separate notice of proposed rulemaking (NPRM) to require bus carriers to transmit advance electronic traveler information to CBP for any individual (passengers or crew) who is arriving in or departing from the United States on board a bus. The NPRM for bus travel proposes to amend 19 CFR part 123, similar to this proposed rule.

Although this proposed rule generally does not directly intersect with the rulemakings for commercial air or bus travel, CBP has endeavored to use consistent regulatory text in these rulemakings. CBP also acknowledges that the regulatory text ultimately promulgated for the various APIS rulemakings may differ from the exact provisions in the relevant proposed rules in order to align the text with any updated regulations as of the time of publication. For example, both this rule and the NPRM for bus travel amends 19 CFR 123.0 to reflect the scope of 19 CFR part 123. This provision, therefore, may require edits at the final rule stage, to accurately align both rules.

CBP realizes that policy and regulatory changes can affect staffing needs, costs, fee revenue, and processing times. CBP will consider these other rulemakings for peripheral, overlapping, or interrelated effects on this rule, and will analyze and incorporate the potential effects of rules that may impact or substantively overlap with this proposal, if any, at a later date.

VI. Statutory and Regulatory Reviews

A. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.”

The Office of Management and Budget (OMB) has designated this proposed rule a “significant regulatory action,” under section 3(f) of Executive Order 12866, although not economically significant under section 3(f)(1). Accordingly, the rule has been reviewed by OMB.

A determination of whether this proposed rule is considered “regulatory” or “deregulatory” under the requirements of Executive Order 14192 will be made when any

final rule in this rulemaking is issued. *See* OMB’s Memorandum “Guidance Implementing Section 3 of Executive Order 14192,” titled ‘Unleashing Prosperity Through Deregulation’ (March 26, 2025).

1. Purpose of the Rule

Before the implementation of voluntary reporting, international rail carriers did not transmit information to CBP for travelers on board a train prior to arriving in or departing from the United States at a port of entry (POE).²⁷ As a result, information regarding train passengers and crew was not provided to CBP in time to adequately and accurately assess potential threats posed by individuals planning to cross the U.S. border by train. CBP did receive an estimated time of arrival for trains arriving in or departing from the United States and carrying commercial cargo. This information was provided informally and voluntarily.

This lack of information resulted in a gap in national security that terrorists and other criminals could exploit to cross the U.S. border or transport weapons and contraband without detection.²⁸ This risk is increased for rail travel because other modes of travel, such as by air and sea, generally require advance traveler information, which CBP uses to identify potential threats from terrorists and other criminals.

To mitigate this security gap, in 2005, CBP established a voluntary reporting program in the rail environment that enables rail carriers to transmit advance traveler information for trains crossing the U.S. border. Since 2005, three passenger rail carriers transmitted advance traveler information to CBP through the voluntary program;

²⁷ For all subsequent mentions of “rail carriers” in this section, CBP is referring only to rail carriers whose trains travel internationally.

²⁸ Examples are provided in section III.B.2, *Need for Rulemaking and Voluntary Program*.

however, only one rail carrier currently participates in the voluntary program.²⁹ No freight rail carriers have participated in the voluntary program. CBP has been able to use the voluntarily transmitted data to identify travelers who require additional vetting or inspection and to identify violations of immigration, customs, agriculture, and other laws prior to a train's arrival at the border while simultaneously facilitating the international travel of legitimate travelers by saving passengers and carriers time waiting at the border. However, because transmission of advance traveler information is not mandatory, not all rail carriers transmit this information and the information they do transmit is not always valid, accurate, or timely. Accordingly, the security gap is still present.

This proposed rule would further mitigate the risk to national security by making the transmission of advance traveler information and a notice of arrival or departure mandatory for all trains arriving in or departing from the United States.

2. Costs and Benefits of Rule

In this regulatory impact analysis, CBP discusses the costs and benefits that international rail carriers, passengers, and CBP would experience with the implementation of this rule in qualitative, and when possible, quantitative, and monetized terms. The period of analysis for this proposed rule is from 2026 through 2030. Additionally, rail carriers, passengers, and CBP have experienced costs and benefits involving the voluntary reporting program since 2005. Though not a result of this rule, CBP will also discuss the effects of the voluntary reporting program for rail carriers and CBP. The voluntary reporting program began in 2005, but quality CBP data on rail carriers begins in 2012. Therefore, the period of the analysis of the voluntary reporting

²⁹ Two small passenger rail carriers ceased international travel during the COVID-19 pandemic and neither have resumed international rail travel since.

program spans from 2012 to 2025. The effects of this rule and the voluntary reporting period can be added together to see the total effect of these two periods of analysis.

a. Costs

This rule would introduce new costs to both passenger rail carriers and cargo rail carriers largely as a result of additional time necessary to prepare, and transmit required information. The costs for passenger rail carriers and cargo rail carriers will be discussed separately as they experience different time burdens. CBP experiences costs related to labor and research and development as a result of this rule. CBP did not identify any new costs for passengers that would result from this rule. CBP requests comment on any potential costs, including any costs associated with changes in passenger behavior or travel patterns, that would be borne by passengers as a result of this rule.

i. International Passenger Rail Carriers

This rule would introduce costs to international passenger rail carriers by requiring them to transmit a notice of arrival/departure no later than 24 hours before arrival at the border and traveler information (including both passenger and crew information) to CBP before the train departs from the final station or stop to approach the U.S. border.³⁰ Before departing a station or stop en route to the border, rail carriers would also be required to transmit amendments to the transmitted traveler information if a person boards or disembarks the train after the traveler manifest has been transmitted to

³⁰ For the purposes of this analysis, “traveler” refers to both the crew and passengers on board a train.

CBP. CBP requests comment on any other costs or changes to operations that would be borne by international passenger rail carriers as a result of this rule.

International passenger rail carriers have several options for how they could record passenger data for the manifests. One option is for rail carriers to record APIS information into an electronic spreadsheet using programs that they are likely to already have access to or are available for free. To transmit the traveler manifest to CBP, rail carriers can take advantage of the free eAPIS web portal. International passenger rail carriers already have computers, internet access, software to record manifests, and may transmit manifests to CBP through the free eAPIS web portal. CBP also plans to allow rail carriers to use any CBP-approved application or system with manifest capabilities to transmit traveler information directly from documents to CBP. CBP believes that this proposed rule would require only minimal technology costs for international passenger rail carriers because they already have most resources needed to transmit a manifest and could take advantage of the free eAPIS web portal.

International passenger rail carriers would experience costs associated with the preparation and transmission of notices of arrival/departure, passenger manifests, crew manifests, and amendments to manifests. Based on its experience with the voluntary reporting program, CBP believes passenger rail carriers would transmit crew manifest information separately and prior to the transmission of passenger manifest information. Accordingly, for the purpose of this analysis, CBP estimated the costs associated with the

collection and submission of crew information separately from the costs associated with the collection and submission of passenger manifests.

Under this rule, for each train intending to cross the U.S. border, international passenger rail carriers would be required to transmit one notice of arrival/departure and one arrival/departure manifest in all cases. Additionally, international passenger rail carriers would be required to submit amended manifests if any of the manifest information changes after it is transmitted to CBP. Based on CBP's experience with the voluntary program, CBP's Office of Field Operations (OFO) estimates that an average of five amendments would be transmitted per passenger train, due to passengers boarding or departing at stations or stops along the route before the final approach to the border and after the traveler information has been initially transmitted. CBP estimates the total transmissions expected by multiplying the number of passenger trains, shown in Table 1 by the number of notices of arrival/departure (1), passenger manifests (1), crew manifests (1), and manifest amendments (5).³¹ The estimated number of transmissions per calendar year are shown in Table 2.

³¹ On March 11, 2020, the World Health Organization (WHO) Director General characterized COVID-19 as a pandemic. *See* WHO, WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020, <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (last accessed Jan. 31, 2022). On March 13, 2020, the President declared that the COVID-19 outbreak in the United States constituted a national emergency. Proclamation No. 9994, 85 FR 15337 (Mar. 18, 2020) (Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak). This national emergency was terminated by joint resolution on April 10, 2023. Pub. L. 118-3, 137 Stat. 6 (Apr. 10, 2023). The outbreak of COVID-19 and subsequent travel restrictions and requirements reduced the number of trains crossing the U.S. border in the short run and may have had an unknown impact in the long run. *See* DHS, Fact Sheet: DHS Measures on the Border to Limit the Further Spread of Coronavirus, <https://www.dhs.gov/archive/news/2020/10/19/fact-sheet-dhs-measures-border-limit-further-spread-coronavirus>. (last accessed Feb. 18, 2026). Consequently, using historical growth rates and figures from 2014-2019 to estimate train traffic does not reflect any impacts from the COVID-19 pandemic. When this analysis was initially prepared, it was not clear what level of reductions the pandemic would have on future train traffic or train passenger numbers or how CBP would estimate such an impact with any precision given the available data. Therefore, passenger train and cargo train projections CBP uses in this analysis are expected to be overestimations for the period of the analysis, resulting in potential overestimations of this rule's costs and benefits.

Table 1. Number of Trains Crossing the U.S. Border by Calendar Year

Calendar Year	Passenger Trains	Cargo Trains
2012	3,445	71,517
2013	3,433	73,943
2014	3,468	73,532
2015	3,516	78,404
2016	3,550	76,300
2017	3,547	63,969
2018	3,580	66,292
2019	3,293	66,111
2020	597	60,435
2021	0	60,450
2022	422	62,958
2023	3,172	60,582
2024	2,817	61,797
2025	3,497	70,215
2026	3,497	70,215
2027	3,497	70,215
2028	3,497	70,215
2029	3,497	70,215
2030	3,497	70,215

Source: Workbook: Border Crossing Data, <https://explore.dot.gov/views/BorderCrossingData/Annual>, accessed April 22, 2025. CBP estimated figures for 2012-2020 using train arrival data and train manifest data of passenger rail carriers participating in the voluntary reporting program. CBP estimated the figures for 2025-2030 using an average number of passenger train crossings from 2015-2019 with an assumption of 0% growth based on communication with CBP subject matter experts. CBP does not track the number of passenger and cargo rail separately. CBP assumes that all trains that arrive to the United States will also depart the United States so the total rail traffic is double the arrivals.

Table 2. Passenger Rail Manifest Transmissions

Calendar Year	Notice of Arrival/Departure	Passenger Manifest	Crew Manifest	Manifest Amendments	Total
2012	0	2,899	2,253	0	5,152
2013	0	2,910	2,550	0	5,460
2014	0	2,914	2,550	0	5,464
2015	0	2,902	1,882	0	4,784

2016	0	2,918	2,069	0	4,987
2017	0	2,915	2,925	0	5,840
2018	0	2,936	2,505	0	5,441
2019	0	2,753	2,409	0	5,162
2020	0	401	591	0	992
2021	0	0	0	0	0
2022	0	421	417	0	838
2023	0	2,421	2,419	0	4,840
2024	0	2,685	2,692	0	5,377
2025	0	2,862	2,344	0	5,206
2026	3,497	3,497	3,497	17,485	27,976
2027	3,497	3,497	3,497	17,485	27,976
2028	3,497	3,497	3,497	17,485	27,976
2029	3,497	3,497	3,497	17,485	27,976
2030	3,497	3,497	3,497	17,485	27,976
Note: Manifest data from the APIS database for 2024 and earlier was provided by CBP OFO subject matter experts on 8/26/2020, 5/13/2021, 6/8/2021, 3/19/2024, and 5/1/2025. Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP OFO subject matter experts. Train crossings include both arrivals and departures, combined.					

CBP subject matter experts estimate preparing and transmitting an advance notice of arrival/departure to take three minutes, a passenger manifest to take ten minutes, a crew manifest to take three minutes, and an amendment for a passenger manifest to take 30 seconds.^{32,33}

Table 3. Passenger Rail Carrier Time Burden per Submission (in minutes)

	Passenger Rail Carriers		
	Pre-Voluntary Program Baseline	Voluntary Program (participants only)	Proposed Regulatory Requirements
Notice of Arrival/Departure	0	0	3

³² The source for passenger manifest time burden is CBP's Supporting Statement for Paperwork Reduction Act Submission for OMB Control No. 1651-0088, Passenger and Crew Manifest for Passenger Flights (Aug. 21, 2020), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202201-1651-002 (last accessed Feb. 18, 2026). Other time burdens were provided by CBP subject matter experts on Aug. 17, 2021.

³³ Discussion of what is included in a Report of Arrival can be found in Section III.B.1 and discussion of what is proposed to be included in the Advance Notice of Arrival can be found in Section IV.A-D of this rule.

Passenger Manifest	0	10	10
Crew Manifest	0	3	3
Manifest Amendment	0.0	0.0	0.5
Time spent at border for processing	60	30	30

Multiplying the annual time burdens in Table 4 by the estimated wage rate for locomotive engineers (\$54.19) results in the estimated annual cost to international passenger rail carriers as shown in Table 5.³⁴ The voluntary reporting program did not require nor request trains to transmit a notice of arrival/departure or manifest amendments so there were no costs for these transmissions for the duration of the program.

Table 4. Total Passenger Rail Time Burden (in hours)

Calendar Year	Notice of Arrival/Departure	Passenger Manifest	Crew Manifests	Manifest Amendment	Total
2012	0	483	113	0	596
2013	0	485	128	0	613
2014	0	486	128	0	613
2015	0	484	94	0	578
2016	0	486	103	0	590
2017	0	486	146	0	632
2018	0	489	125	0	615
2019	0	459	120	0	579

³⁴ U.S. Bureau of Labor Statistics. Occupational Employment and Wage Statistics, “May 2023 National Occupational Employment and Wage Estimates United States.” Updated April 3, 2024. Available at https://www.bls.gov/oes/2023/may/oes_nat.htm. Accessed June 4, 2024. The total compensation to wages and salaries ratio is equal to the total compensation cost per hour worked for Transportation and Material Moving occupations (\$34.89) divided by the wages and salaries cost per hour worked for the same occupation category (\$23.99). See “Table 2. Employer Costs for Employee Compensation for civilian workers by occupational and industry group.” Bureau of Labor Statistics, “Employer Costs for Employee Compensation – December 2023.” Released March 13, 2024. Available at https://www.bls.gov/news.release/archives/ecec_03132024.pdf. Accessed June 4, 2024. To adjust to 2024 dollars, multiply by the 2022 Q1 - 2024 Q1 percent change in the Bureau of Economic Analysis's Implicit Price Deflators for Gross Domestic Product (124.203/107.668-1). See “Table 1.1.9. Implicit Price Deflators for Gross Domestic Product,” Line 1 Gross Domestic Product, quarterly. Bureau of Economic Analysis (updated May 30, 2024), available at https://apps.bea.gov/iTable/?reqid=19&step=2&isuri=1&categories=survey&_gl=1*175tbc1*_ga*MTEyNTU1Nzc4Ny4xNzE3NTEyMTUw*_ga_J4698JNNFT*MTcxOTQzMDIwNS4xLjEuMTcxOTQzMDIzMi4zMjY4wLjA.#eyJhcHBpZCI6MTksInN0ZXBzIjpbMSwyLDNdLCJkYXRhIjpbWjYjYXRlZ29yaWVzIiwiaU3VydmV5IiI0sWjYJOSVBBX1RhYmxlX0xpc3QlLCIxMyJdXX0= (last accessed June 4, 2024).

2020	0	67	30	0	96
2021	0	0	0	0	0
2022	0	70	21	0	91
2023	0	404	121	0	524
2024	0	448	135	0	582
2025	0	477	117	0	594
2026	175	583	175	146	1,078
2027	175	583	175	146	1,078
2028	175	583	175	146	1,078
2029	175	583	175	146	1,078
2030	175	583	175	146	1,078
Note: Manifest data for 2024 and earlier were provided by CBP OFO subject matter experts on 8/26/2020, 5/13/2021, 6/8/2021, 3/19/24, and 5/1/25. Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP OFO subject matter experts. Train crossings include both arrivals and departures combined. Figures may not sum to total due to rounding.					

Table 5. Passenger Rail Costs (in undiscounted 2024 dollars)

Calendar Year	Notice of Arrival/Departure	Passenger Manifest	Crew Manifests	Manifest Amendment	Total
2012	\$0	\$26,183	\$6,105	\$0	\$32,287
2013	\$0	\$26,282	\$6,909	\$0	\$33,191
2014	\$0	\$26,318	\$6,909	\$0	\$33,228
2015	\$0	\$26,210	\$5,099	\$0	\$31,309
2016	\$0	\$26,354	\$5,606	\$0	\$31,960
2017	\$0	\$26,327	\$7,925	\$0	\$34,253
2018	\$0	\$26,517	\$6,787	\$0	\$33,304
2019	\$0	\$24,864	\$6,527	\$0	\$31,391
2020	\$0	\$3,622	\$1,601	\$0	\$5,223
2021	\$0	\$0	\$0	\$0	\$0
2022	\$0	\$3,802	\$1,130	\$0	\$4,932
2023	\$0	\$21,866	\$6,554	\$0	\$28,420
2024	\$0	\$24,250	\$7,294	\$0	\$31,544
2025	\$0	\$25,852	\$6,350	\$0	\$32,202
2026	\$9,475	\$31,584	\$9,475	\$7,896	\$58,430
2027	\$9,475	\$31,584	\$9,475	\$7,896	\$58,430
2028	\$9,475	\$31,584	\$9,475	\$7,896	\$58,430
2029	\$9,475	\$31,584	\$9,475	\$7,896	\$58,430
2030	\$9,475	\$31,584	\$9,475	\$7,896	\$58,430
2012-2025 average	\$0	\$20,603	\$5,343	\$0	\$25,946

2026-2030 average	\$9,475	\$31,584	\$9,475	\$7,896	\$58,430
Note: Manifest data for 2024 and earlier were provided by CBP OFO subject matter experts on 8/26/2020, 5/13/2021, 6/8/2021, 3/19/24, and 5/1/25. Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP OFO subject matter experts. Train crossings include both arrivals and departures combined. Figures may not sum to total due to rounding.					

International passenger rail carriers may also experience costs when required to call CBP related to document errors or CBP determining that someone on a manifest would not be allowed to enter the United States. CBP estimates that this could be required for one percent of all rail passengers arriving in the United States and that total costs to the industry would be less than \$1,000 annually. CBP believes this cost to be negligible due to the rarity of the occurrence and the minimal time it would take to address issues. CBP requests comments on this estimate.

ii. International Cargo Rail Carriers

International cargo rail carriers, like international passenger rail carriers, can record APIS manifest information into an electronic spreadsheet using programs that they are likely to already have access to or that are available for free. To transmit the APIS manifest to CBP, rail carriers can take advantage of the eAPIS web portal to which a rail carrier can create a free account and upload an existing spreadsheet of data. International cargo rail carriers already have computers, internet access, software to record manifests, and may transmit manifests to CBP through the free eAPIS web portal. CBP also plans to allow rail carriers to use any CBP-approved application or system with manifest capabilities to transmit traveler information directly from documents to CBP.

CBP believes that this proposed rule would require only minimal technology costs for international cargo rail carriers because they already have most resources needed to

transmit a manifest and could take advantage of the free eAPIS web portal. International cargo rail carriers would experience costs associated with the preparation and transmission of notices of arrival/departure and arrival and departure manifests for all travelers on board. The total transmissions expected for each are assumed to be equal to the number of cargo trains shown in Table 1. For the years 2026-2030, CBP estimates the number of transmissions to be 70,215 annually. As previously stated, CBP estimates preparing and transmitting a notice of arrival/departure to take three minutes and a crew manifest to take three minutes.³⁵ CBP multiplied the respective time burdens of 3 minutes, or 0.05 hours, by the number of transmissions results to estimate the total annual time burden. CBP does not anticipate that cargo rail carriers will need to submit manifest amendments because they typically only have a couple crew members on-board and no passengers. Since no cargo rail carriers participated in the voluntary reporting program, the annual time and monetized cost for 2012-2025 are zero. The total expected time burden for years 2026-2030 are shown in Table 7.

Table 6. Cargo Rail Time Burden per Submission

Time Burden per Submission (in minutes)	Cargo Rail Carriers		
	Baseline	Voluntary Program (participants only)	Regulatory Requirements
submit notice of arrival/departure	0	0	3
Crew Manifests	0	3	3

Table 7. Cargo Rail Time Burden (in hours)

Calendar Year	Notice of Arrival/Departure	Crew Manifests	Total
2026	3,511	3,511	7,022
2027	3,511	3,511	7,022
2028	3,511	3,511	7,022

³⁵ Cargo rail carriers may need to submit manifest amendments, but CBP believes manifest amendments will be rare for cargo rail carriers.

2029	3,511	3,511	7,022
2030	3,511	3,511	7,022
Note: Figures for 2026-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.			

CBP then multiplied the annual time burdens in Table 7 by the estimated wage rate for locomotive engineers (\$54.19), resulting in the estimated annual cost to international cargo rail carriers as shown in Table 8.

Table 8. Cargo Rail Costs (in undiscounted 2024 dollars)

Calendar Year	Notice of Arrival/Departure	Crew Manifests	Total
2026	\$190,248	\$190,248	\$380,495
2027	\$190,248	\$190,248	\$380,495
2028	\$190,248	\$190,248	\$380,495
2029	\$190,248	\$190,248	\$380,495
2030	\$190,248	\$190,248	\$380,495
Note: Figures for 2026-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. Figures may not sum to total due to rounding.			

iii. CBP

CBP experiences costs related to labor and research and development as a result of this rule. Research and development of systems required to accommodate the transmission of information by rail carriers resulted in an initial cost to CBP of \$2,039,255 in 2012 and annual costs of \$611,766 for four years after for a five-year total cost of \$4,486,319 for research and development. CBP does not expect additional research and development costs as a result of the rule.

During the voluntary reporting program, CBP subject matter experts report that a CBP officer took approximately ten minutes on average to perform initial vetting and approve a train to approach the border for each passenger train which had transmitted

manifest information for travelers on board the train prior to arrival at the border.³⁶ This is a new time burden resulting from the implementation of the voluntary reporting program and will continue as part of this rule. This time burden is offset by time saved at the border which is addressed later in the analysis. CBP estimated the annual time burden of initial vetting as a result of the voluntary reporting program and this rule by multiplying the time burden per passenger train (ten minutes) by the annual number of passenger trains arriving or departing with a manifest transmitted in advance (Table 9).

CBP estimates the time burden to perform an initial vetting and approve a cargo train to approach the border to be on average five minutes.³⁷ CBP estimated the annual time burden of initial vetting for cargo trains by multiplying the time burden per cargo train (five minutes) by the annual number of cargo trains arriving or departing with a manifest transmitted in advance (Table 10). No cargo train carriers transmitted crew manifests as part of the voluntary reporting program but would be required to transmit manifests for all travelers on board, including all crew, as a result of this rule. CBP's total time burden for performing initial vetting for both passenger trains and cargo trains is shown in Table 11.

Table 9. Manifested and Unmanifested Passenger Trains

Calendar Year	Arriving With Manifest	Arriving Without Manifest	Departing With Manifest	Departing Without Manifest
2012	1,450	273	1,449	273
2013	1,455	261	1,456	261
2014	1,460	277	1,454	277
2015	1,450	307	1,452	307
2016	1,457	316	1,461	316
2017	1,467	311	1,458	311
2018	1,467	322	1,469	322

³⁶ CBP OFO subject matter expert time estimates provided on Aug. 17, 2021.

³⁷ CBP OFO subject matter expert time estimate provided on June 8, 2020.

2019	1,358	270	1,395	270
2020	268	0	329	0
2021	0	0	0	0
2022	211	0	211	0
2023	1,211	373	1,215	373
2024	1,348	62	1,345	62
2025	1,440	309	1,447	302
2026	1,749	0	1,749	0
2027	1,749	0	1,749	0
2028	1,749	0	1,749	0
2029	1,749	0	1,749	0
2030	1,749	0	1,749	0
Note: Manifest data for 2024 and earlier were provided by CBP OFO subject matter experts on 8/26/2020, 5/13/2021, 6/8/2021, 3/19/24, and 5/1/25. Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP OFO subject matter experts. Train crossings include both arrivals and departures combined.				

Table 10. Manifested and Unmanifested Cargo Trains

Calendar Year	Arriving With Manifest	Arriving Without Manifest	Departing With Manifest	Departing Without Manifest
2012	0	35,758	0	35,759
2013	0	36,972	0	36,971
2014	0	36,763	0	36,769
2015	0	39,203	0	39,201
2016	0	38,152	0	38,148
2017	0	31,980	0	31,989
2018	0	33,147	0	33,145
2019	0	33,074	0	33,037
2020	0	30,248	0	30,187
2021	0	30,225	0	30,225
2022	0	31,479	0	31,479
2023	0	30,293	0	30,289
2024	0	30,897	0	30,900
2025	0	35,108	0	35,107
2026	35,108	0	35,107	0
2027	35,108	0	35,107	0
2028	35,108	0	35,107	0
2029	35,108	0	35,107	0
2030	35,108	0	35,107	0

Note: Manifest data for 2024 and earlier were provided by CBP OFO subject matter experts on 8/26/2020, 5/13/2021, 6/8/2021, 3/19/24, and 5/1/25. Figures for 2025-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP OFO subject matter experts. Train crossings include both arrivals and departures combined.

Table 11. Annual CBP Time Burden for Initial Vetting of Manifested Trains (in hours)

Calendar Year	Passenger Trains		Cargo Trains		Total Time
	Arrivals	Departures	Arrivals	Departures	
2012	242	242	0	0	483
2013	243	243	0	0	485
2014	243	242	0	0	486
2015	242	242	0	0	484
2016	243	244	0	0	486
2017	245	243	0	0	488
2018	245	245	0	0	489
2019	226	233	0	0	459
2020	45	55	0	0	100
2021	0	0	0	0	0
2022	35	35	0	0	70
2023	202	203	0	0	404
2024	225	224	0	0	449
2025	240	241	0	0	481
2026	291	291	2,926	2,926	6,434
2027	291	291	2,926	2,926	6,434
2028	291	291	2,926	2,926	6,434
2029	291	291	2,926	2,926	6,434
2030	291	291	2,926	2,926	6,434
Note: Figures for 2025-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. Figures may not sum to total due to rounding.					

CBP monetized annual CBP costs for initial vetting by multiplying the annual time burden by the wage rate of a CBP officer (\$99.33 per hour).³⁸ The total annual cost of initial vetting is shown in Table 12.

³⁸ CBP bases this wage on the FY 2024 salary and benefits of the national average of CBP Officer Positions, which is equal to a GS-11, Step 10. Source: CBP Office of Finance, Position Model.

Table 12. Annual Monetized CBP Cost for Initial Vetting of Manifested Trains (in undiscounted 2024 dollars)

Calendar Year	Passenger Trains		Cargo Trains		Total Cost
	Arrivals	Departures	Arrivals	Departures	
2012	\$24,004	\$23,987	\$0	\$0	\$47,991
2013	\$24,087	\$24,103	\$0	\$0	\$48,190
2014	\$24,169	\$24,070	\$0	\$0	\$48,239
2015	\$24,004	\$24,037	\$0	\$0	\$48,041
2016	\$24,120	\$24,186	\$0	\$0	\$48,305
2017	\$24,285	\$24,136	\$0	\$0	\$48,421
2018	\$24,285	\$24,318	\$0	\$0	\$48,603
2019	\$22,481	\$23,093	\$0	\$0	\$45,574
2020	\$4,437	\$5,446	\$0	\$0	\$9,883
2021	\$0	\$0	\$0	\$0	\$0
2022	\$3,493	\$3,493	\$0	\$0	\$6,986
2023	\$20,047	\$20,113	\$0	\$0	\$40,161
2024	\$22,315	\$22,266	\$0	\$0	\$44,581
2025	\$23,835	\$23,954	\$0	\$0	\$47,789
2026	\$28,945	\$28,945	\$290,594	\$290,586	\$639,071
2027	\$28,945	\$28,945	\$290,594	\$290,586	\$639,071
2028	\$28,945	\$28,945	\$290,594	\$290,586	\$639,071
2029	\$28,945	\$28,945	\$290,594	\$290,586	\$639,071
2030	\$28,945	\$28,945	\$290,594	\$290,586	\$639,071
Note: Figures for 2025-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. Figures may not sum to total due to rounding.					

CBP then adds the annual costs for initial security vetting to the costs of research and development to prepare the APIS system for rail which results in the total cost to

CBP. The total annual costs of this rule for CBP are shown in Table 13.

Table 13. Total Annual Monetized CBP Cost (in undiscounted 2024 dollars)

Calendar Year	Initial Security Vetting	Research and Development	Total Costs
2012	\$47,991	\$2,039,255	\$2,087,246
2013	\$48,190	\$611,766	\$659,956
2014	\$48,239	\$611,766	\$660,005
2015	\$48,041	\$611,766	\$659,807
2016	\$48,305	\$611,766	\$660,071
2017	\$48,421	--	\$48,421

2018	\$48,603	--	\$48,603
2019	\$45,574	--	\$45,574
2020	\$9,883	--	\$9,883
2021	\$0	--	\$0
2022	\$6,986	--	\$6,986
2023	\$40,161	--	\$40,161
2024	\$44,581	--	\$44,581
2025	\$47,789	--	\$47,789
2026	\$639,071	--	\$639,071
2027	\$639,071	--	\$639,071
2028	\$639,071	--	\$639,071
2029	\$639,071	--	\$639,071
2030	\$639,071	--	\$639,071
2012-2025 average	\$38,055	\$320,451	\$358,506
2026-2030 average	\$639,071	--	\$639,071
Note: Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. Figures may not sum to total due to rounding.			

iv. Summary of Costs

Using the data in Table 5, CBP estimates that passenger rail carriers experienced an average undiscounted annual cost of \$25,946 during the voluntary reporting program between 2012 and 2025 and are expected to experience an average undiscounted annual cost of \$58,430 in years 2026-2030 as a result of this rule compared to a baseline of no rule or voluntary reporting program.³⁹ Using data from Table 8, Cargo rail carriers are expected to experience an average undiscounted annual cost of \$380,495 as a result of this rule. Cargo rail carriers experienced no costs as a result of the voluntary reporting period because they did not participate. CBP does not anticipate passengers to experience any costs as a result of this rule because CBP assumes the information

³⁹ The average undiscounted annual cost for passenger rail carriers between 2012 and 2019 is \$32,615.

required by this rule is already provided by passengers to either CBP or rail carriers. During the voluntary reporting program, CBP experienced an average undiscounted annual cost of \$38,055 as a result of the initial vetting. Between 2012 and 2016, CBP also experienced total research and development costs of \$4,486,319 for systems to implement this program. CBP expects the average annual cost attributed to initial vetting to increase to an undiscounted \$639,071 as a result of this rule compared to a baseline of no voluntary reporting program. CBP does not expect additional research and development costs.

In Table 14 below, the discounted costs are shown for passenger rail carriers, cargo rail carriers, and CBP, expected as a result of this proposed rule. Passenger rail carriers would be expected to experience a total cost from 2026 to 2030 of \$259,798 and \$223,901 using a 3-percent and 7-percent discount rate respectively and annualized costs of \$58,430. From 2026 to 2030, cargo rail carriers would be expected to experience a total cost of \$1,691,802 and \$1,458,042 using a 3-percent and 7-percent discount rate respectively and annualized costs \$380,495. CBP would be expected to experience a total cost of \$2,841,511 and \$2,448,894 using a 3-percent and 7-percent discount rate respectively and annualized costs of \$639,071.

Table 14. Summary of Discounted Costs of Rule

Calendar Year	Passenger Rail Carriers		Cargo Rail Carriers		CBP	
	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate
2026	\$55,076	\$51,035	\$358,653	\$332,339	\$602,385	\$558,189
2027	\$53,472	\$47,696	\$348,207	\$310,597	\$584,840	\$521,672
2028	\$51,914	\$44,576	\$338,065	\$290,278	\$567,806	\$487,544
2029	\$50,402	\$41,660	\$328,218	\$271,288	\$551,268	\$455,649
2030	\$48,934	\$38,934	\$318,659	\$253,540	\$535,212	\$425,840
Total	\$259,798	\$223,901	\$1,691,802	\$1,458,042	\$2,841,511	\$2,448,894

Annualized Cost	\$58,430	\$58,430	\$380,495	\$380,495	\$639,071	\$639,071
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Note: Figures for 2026-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.

Figures may not sum to total due to rounding.

In Table 15 below, the discounted costs are shown for passenger rail carriers, cargo rail carriers, and CBP relating to the voluntary reporting period that has been active since 2005. Passenger rail carriers experienced a total cost from 2012 to 2025 of \$439,448 and \$573,971 using a 3-percent and 7-percent discount rate respectively. CBP experienced total costs of \$6,794,793 and \$10,103,253 using a 3-percent and 7-percent discount rate respectively. From 2012 to 2025, cargo rail carriers experienced no costs as they did not participate in the voluntary reporting period.

Table 15. Summary of Discounted Costs of Voluntary Reporting Period (2012-2025)

Calendar Year	Passenger Rail Carriers		CBP		Total	
	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate
2012	\$46,034	\$72,717	\$2,975,914	\$4,700,878	\$3,021,948	\$4,773,595
2013	\$45,945	\$69,863	\$913,533	\$1,389,109	\$959,478	\$1,458,972
2014	\$44,655	\$65,364	\$886,992	\$1,298,330	\$931,647	\$1,363,694
2015	\$40,851	\$57,561	\$860,898	\$1,213,028	\$901,749	\$1,270,588
2016	\$40,486	\$54,914	\$836,159	\$1,134,126	\$876,645	\$1,189,040
2017	\$42,126	\$55,002	\$59,552	\$77,754	\$101,679	\$132,756
2018	\$39,767	\$49,981	\$58,035	\$72,941	\$97,802	\$122,921
2019	\$36,391	\$44,028	\$52,833	\$63,920	\$89,224	\$107,948
2020	\$5,879	\$6,846	\$11,123	\$12,954	\$17,002	\$19,801
2021	\$0	\$0	\$0	\$0	\$0	\$0
2022	\$5,233	\$5,647	\$7,411	\$7,998	\$12,644	\$13,645
2023	\$29,273	\$30,409	\$41,366	\$42,972	\$70,638	\$73,381
2024	\$31,544	\$31,544	\$44,581	\$44,581	\$76,125	\$76,125
2025	\$31,264	\$30,096	\$46,397	\$44,663	\$77,661	\$74,758
Total	\$439,448	\$573,971	\$6,794,793	\$10,103,253	\$7,234,241	\$10,677,224
Annualized Cost	\$26,491	\$27,234	\$409,605	\$479,390	\$436,095	\$506,624

Note: Figures for 2026-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. Figures may not sum to total due to rounding.

b. Benefits

When international rail carriers provide advance notice of arrival, departure, and manifest information for travelers, as would be required by this proposed rule, CBP would be able to perform initial vetting of the individuals crossing the U.S. border by train and allow for additional security vetting. This additional vetting would significantly reduce the wait times at the border for passenger rail carriers and passengers while increasing security for passenger rail carriers, cargo rail carriers, and passengers. CBP would also benefit from the reduced time burden at the border. Benefits are discussed using a baseline of no voluntary reporting program or rule.

i. International Passenger Rail Carriers - Crew

Upon implementation of this rule, passenger rail carriers would see a reduction in the time spent waiting at the border for CBP to process travelers. CBP OFO estimates that approximately one percent of departing passenger trains are held at the border for inspection; all arriving passenger trains are held for inspection.⁴⁰ According to CBP's Office of Field Operations (OFO), passenger trains that did not transmit a passenger or crew manifest before arriving in or departing from the United States could expect to have a one hour wait at the port of entry while CBP officers work to process all the travelers for entry or exit. CBP expects the advance transmission of crew and passenger manifest

⁴⁰ CBP OFO subject matter experts provided this estimate on May 26, 2020.

information, as described in this rule, would reduce the wait at the border by half an hour on average.⁴¹

To estimate the time savings for passenger rail crew, CBP first used manifest data from the voluntary program to obtain the number of crew on a passenger train in years 2012-2025 and found the average number of crew in those years to be 4.46 per passenger train. CBP then multiplied 4.46 by the number of estimated passenger rail manifest transmissions (Table 2) in years 2026-2030, to estimate the total number of crew in those years (Table 16).

Table 16. Annual Manifested Passenger Train Crew Processed

Calendar Year	Arrivals	Departures	Total
2012	6,107	60	6,167
2013	6,345	71	6,416
2014	6,514	70	6,584
2015	4,830	42	4,872
2016	6,139	57	6,196
2017	10,158	75	10,233
2018	8,848	65	8,913
2019	9,161	92	9,253
2020	2,005	22	2,027
2021	0	0	0
2022	1,047	8	1,055
2023	7,256	54	7,310
2024	5,116	60	5,176
2025	7,827	66	7,893
2026	14,812	148	14,960
2027	14,812	148	14,960
2028	14,812	148	14,960
2029	14,812	148	14,960
2030	14,812	148	14,960
Note: Manifest data from the APIS database for 2024 and earlier was provided by CBP OFO subject matter experts on 8/26/2020, 5/13/2021, 6/8/2021, 3/19/2024, and 5/1/2025.			

⁴¹ CBP OFO subject matter experts provided this estimate on Feb. 27, 2020.

Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.

To estimate the annual time savings for arriving and departing passenger rail carriers as a result of this rule, CBP multiplied the time savings per passenger train (0.5 hours) by the number of passenger train crew arriving or departing with manifests (Table 16). The total estimated person-hours saved are shown in Table 17.

Table 17. Annual Passenger Train Crew Person-Hours Saved at Border

Calendar Year	Arrivals	Departures	Total
2012	3,054	30	3,084
2013	3,173	36	3,208
2014	3,257	35	3,292
2015	2,415	21	2,436
2016	3,070	29	3,098
2017	5,079	38	5,117
2018	4,424	33	4,457
2019	4,581	46	4,627
2020	1,003	11	1,014
2021	0	0	0
2022	524	4	528
2023	3,628	27	3,655
2024	2,558	30	2,588
2025	3,914	33	3,947
2026	7,406	74	7,480
2027	7,406	74	7,480
2028	7,406	74	7,480
2029	7,406	74	7,480
2030	7,406	74	7,480
Note: Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. Figures may not sum to total due to rounding.			

CBP then estimated the total monetized benefits for crew of passenger rail carriers by multiplying the person-hours saved (Table 17) by the estimated hourly wage rate.

CBP understands that there are typically several employees of various roles on any passenger train but due to a lack of information regarding their positions and wage rates, CBP uses the locomotive engineer wage rate (\$54.19) for these employees to estimate the benefits for passenger rail carriers. The total monetized benefits for passenger rail carriers can be found in Table 18.

Table 18. Monetized Passenger Train Carrier Benefits

Calendar Year	Arrivals	Departures	Total
2012	\$165,469	\$1,626	\$167,095
2013	\$171,918	\$1,924	\$173,842
2014	\$176,497	\$1,897	\$178,393
2015	\$130,869	\$1,138	\$132,007
2016	\$166,336	\$1,544	\$167,881
2017	\$275,231	\$2,032	\$277,263
2018	\$239,737	\$1,761	\$241,498
2019	\$248,217	\$2,493	\$250,710
2020	\$54,325	\$596	\$54,922
2021	\$0	\$0	\$0
2022	\$28,368	\$217	\$28,585
2023	\$196,601	\$1,463	\$198,064
2024	\$138,618	\$1,626	\$140,244
2025	\$212,078	\$1,794	\$213,872
2026	\$401,331	\$4,010	\$405,341
2027	\$401,331	\$4,010	\$405,341
2028	\$401,331	\$4,010	\$405,341
2029	\$401,331	\$4,010	\$405,341
2030	\$401,331	\$4,010	\$405,341
2012-2025 average	\$157,447	\$1,436	\$158,884
2026-2030 average	\$401,331	\$4,010	\$405,341
Note: Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. Figures may not sum to total due to rounding.			

ii. International Rail Passengers

Passengers traveling internationally by rail would experience a shorter wait at the U.S. border as a result of this rule because CBP can perform the initial vetting before the train arrives at the border. To determine the time saved for all passengers shown in Table 20, CBP multiplied the wait time saved per passenger train (0.5 hours) by the number of passengers processed at the U.S. border on passenger trains for which a manifest has been transmitted to CBP, shown in Table 19.⁴² CBP then multiplied the hourly wage rate for all-purpose rail travelers (\$70.45) by the total time saved in Table 20 to monetize the savings passengers would experience as a result of this rule as shown in Table 21.⁴³

Table 19. Annual Manifested Train Passengers Processed at Border

Calendar Year	Arrivals	Departures	Total
2012	177,259	1,343	178,602
2013	171,911	1,356	173,267
2014	154,391	1,343	155,734
2015	156,732	1,375	158,107
2016	160,228	1,414	161,642
2017	157,751	1,358	159,109
2018	147,704	1,336	149,040
2019	122,059	1,178	123,237
2020	13,605	48	13,653

⁴² CBP OFO subject matter experts estimate for passenger time savings provided on Sept. 28, 2020.

⁴³ CBP estimated the passenger wage rate (\$70.45) using the weighted average of personal travel and business travel by high-speed rail ($(\$51.50 \times 40.4\%) + (\$83.30 \times 59.6\%)$). Source for the passenger wage rate: U.S. Department of Transportation, Office of Transportation Policy. Benefit-Cost Analysis Guidance for Discretionary Grant Programs, “Table A-2: Value of Travel Time Savings.” November 2024. Available at: <https://www.transportation.gov/sites/dot.gov/files/2024-11/Benefit%20Cost%20Analysis%20Guidance%202025%20Update%20%28Final%29.pdf>. Original DOT policy is available at <https://www.transportation.gov/sites/dot.gov/files/docs/2016%20Revised%20Value%20of%20Travel%20Time%20Guidance.pdf>. Accessed June 17, 2024. U.S. Bureau of Labor Statistics. Occupational Employment and Wage Statistics, “May 2023 National Occupational Employment and Wage Estimates United States.” Updated April 3, 2024. Available at https://www.bls.gov/oes/2023/may/oes_nat.htm. Accessed June 4, 2024. “Table 2. Employer Costs for Employee Compensation for civilian workers by occupational and industry group.” Bureau of Labor Statistics, “Employer Costs for Employee Compensation – December 2023.” Released March 13, 2024. Available at https://www.bls.gov/news.release/archives/ecec_03132024.pdf. Accessed June 4, 2024. CBP assumes the 2023 passenger wage rate calculated above is equal to the 2024 passenger wage rate.

2021	0	0	0
2022	16,176	125	16,301
2023	128,027	1,099	129,126
2024	115,875	1,362	117,237
2025	148,895	1,332	150,227
2026	229,665	2,297	231,962
2027	229,665	2,297	231,962
2028	229,665	2,297	231,962
2029	229,665	2,297	231,962
2030	229,665	2,297	231,962
Note: Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.			

Table 20. Annual Passenger Time Saved at Border (in hours)

Calendar Year	Arrivals	Departures	Total Time Saved
2012	88,630	672	89,301
2013	85,956	678	86,634
2014	77,196	672	77,867
2015	78,366	688	79,054
2016	80,114	707	80,821
2017	78,876	679	79,555
2018	73,852	668	74,520
2019	61,030	589	61,619
2020	6,803	24	6,827
2021	0	0	0
2022	8,088	63	8,151
2023	64,014	550	64,563
2024	57,938	681	58,619
2025	74,447	666	75,114
2026	114,833	1,149	115,981
2027	114,833	1,149	115,981
2028	114,833	1,149	115,981
2029	114,833	1,149	115,981
2030	114,833	1,149	115,981
Note: Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.			

Table 21. Annual Monetized Passenger Savings at Border

Calendar Year	Arrivals	Departures	Total Savings
2012	\$6,243,948	\$47,307	\$6,291,255
2013	\$6,055,565	\$47,765	\$6,103,330
2014	\$5,438,423	\$47,307	\$5,485,730
2015	\$5,520,885	\$48,434	\$5,569,319
2016	\$5,644,031	\$49,808	\$5,693,839
2017	\$5,556,779	\$47,836	\$5,604,615
2018	\$5,202,873	\$47,061	\$5,249,934
2019	\$4,299,528	\$41,495	\$4,341,023
2020	\$479,236	\$1,691	\$480,927
2021	\$0	\$0	\$0
2022	\$569,800	\$4,403	\$574,203
2023	\$4,509,751	\$38,712	\$4,548,463
2024	\$4,081,697	\$47,976	\$4,129,673
2025	\$5,244,819	\$46,927	\$5,291,746
2026	\$8,089,950	\$80,912	\$8,170,861
2027	\$8,089,950	\$80,912	\$8,170,861
2028	\$8,089,950	\$80,912	\$8,170,861
2029	\$8,089,950	\$80,912	\$8,170,861
2030	\$8,089,950	\$80,912	\$8,170,861
2012-2025 average	\$4,203,381	\$36,909	\$4,240,290
2026-2030 average	\$8,089,950	\$80,912	\$8,170,861
Note: Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. Figures may not sum to total due to rounding.			

iii. International Cargo Rail Carriers

International cargo trains typically cross the border multiple times per day with the same crew aboard. Due to this unique circumstance, CBP subject matter experts believe that international cargo rail carriers would see some time savings as a result of this rule. Currently, the crew of cargo trains must bring a cargo train to a complete stop in order for CBP to inspect the crew on either arrival or departure. The crew then must

restart the train's motion, which is a time-consuming process. Under this rule, because CBP would have crew information prior to arrival at the border and likely would have already processed the crew previously that day, CBP could perform the crew inspection while the train is moving slowly, as opposed to at a complete stop. To the extent that this saves cargo rail carriers time at the border, the benefits to cargo rail carriers would be higher than reported in this analysis. CBP does not currently have quantitative estimate of this time savings and requests comment on this subject.

iv. Security Benefits

Passengers, passenger rail carriers, cargo rail carriers, and the general public would all benefit from the increased security that would result from this proposed rule. By allowing CBP the time to perform an initial vetting before the train arrives at the border, CBP can provide instruction regarding the clearance of each passenger.⁴⁴ In 2008, a Canadian citizen was apprehended by CBP and refused entry after an exact Terrorist Screening Dataset (previously known as the Terrorist Screening Database) match on an APIS manifest.⁴⁵ The traveler manifest data, provided as part of the voluntary reporting program, allowed CBP officers the time to research the individual extensively and check the manifest for any potential co-travelers of the individual. CBP also checked service records and open sources to find as much information on the individual before the arrival of the train. Security benefits remain unquantified in this

⁴⁴ This is the same as for other modes of transportation that already submit advance passenger data, such as commercial aircraft, private aircraft, and vessels. For example, for commercial aircraft, air carriers typically follow CBP's recommendations but if they transport an alien who CBP determines is inadmissible, the carrier may be required to pay for transporting the inadmissible alien out of the United States and be subject to fines. *See, e.g.*, INA 231(c), (d) (8 U.S.C. 1221(c), (d)); INA 273(a)(1), (b) (8 U.S.C. 1323(a)(1), (b)).

⁴⁵ Information provided by CBP subject matter experts on March 9, 2020. For more examples see section III.B.2, *Need for Rulemaking and Voluntary Program*.

analysis. As a result of this rule, CBP will be able to perform the same level of vetting for all travelers arriving or departing the U.S. border by train, as CBP currently does for air and sea.

v. CBP

CBP OFO reports that it currently takes approximately one hour for six CBP officers to process an average passenger train (six person-hours) and five minutes for an average cargo train at the border if no passenger or crew manifest was received beforehand and no initial vetting was possible. While cargo trains are expected to see only a negligible decrease in processing time with this rule, time may be saved from reducing the time spent decelerating the train to a full stop and then bringing the train back up to speed. Data from the voluntary reporting program shows that this rule can reduce the time burden to process a passenger train to half an hour for four CBP officers (two person-hours). Multiplying the time saved per train (four person-hours) by the number of manifested trains processed per year from Table 9 yields the total time saved by CBP annually and is shown in Table 22. Similar to the passenger savings section, while the CBP time savings applies to inspections of all arriving trains, only a portion of departing trains results in savings for CBP. For departing trains, CBP OFO estimates that one percent of departing passenger trains are held at the border for inspection by CBP. To monetize this savings, the time saved is multiplied by the fully loaded wage rate for a CBP officer (\$99.33) and the results are shown in Table 23.

Table 22. Annual CBP Time Saved Processing Passenger Trains

Calendar Year	Arriving With Manifest	Departing With Manifest	Total
2012	5,800	58	5,858
2013	5,820	58	5,878
2014	5,840	58	5,898

2015	5,800	58	5,858
2016	5,828	58	5,886
2017	5,868	58	5,926
2018	5,868	59	5,927
2019	5,432	56	5,488
2020	1,072	13	1,085
2021	0	0	0
2022	844	8	852
2023	4,844	49	4,893
2024	5,392	54	5,446
2025	5,759	58	5,817
2026	6,994	70	7,064
2027	6,994	70	7,064
2028	6,994	70	7,064
2029	6,994	70	7,064
2030	6,994	70	7,064
Note: Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.			

Table 23. Monetized CBP Benefits Processing Passenger Trains

Calendar Year	Arriving With Manifest	Departing With Manifest	Total
2012	\$576,090	\$5,761	\$581,851
2013	\$578,076	\$5,761	\$583,837
2014	\$580,063	\$5,761	\$585,824
2015	\$576,090	\$5,761	\$581,851
2016	\$578,871	\$5,761	\$584,632
2017	\$582,844	\$5,761	\$588,605
2018	\$582,844	\$5,860	\$588,704
2019	\$539,538	\$5,562	\$545,100
2020	\$106,477	\$1,291	\$107,769
2021	\$0	\$0	\$0
2022	\$83,831	\$795	\$84,626
2023	\$481,134	\$4,867	\$486,001
2024	\$535,565	\$5,364	\$540,929
2025	\$572,037	\$5,761	\$577,798
2026	\$694,685	\$6,953	\$701,638
2027	\$694,685	\$6,953	\$701,638
2028	\$694,685	\$6,953	\$701,638
2029	\$694,685	\$6,953	\$701,638
2030	\$694,685	\$6,953	\$701,638

2012-2025 average	\$455,247	\$4,576	\$459,823
2026-2030 average	\$694,685	\$6,953	\$701,638
Note: Figures for 2025-2030 are based on an average of passenger train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. Figures may not sum to total due to rounding.			

vi. Summary of Benefits

Passenger rail carriers experienced an average undiscounted annual benefit of \$158,884 during the voluntary reporting program and are expected to collectively experience an undiscounted annual benefit of \$405,341 as a result of this rule compared to a baseline of no rule or voluntary reporting program. Cargo rail carriers experienced no benefits as a result of the voluntary reporting period because they did not participate. Cargo rail carriers are expected to collectively experience only negligible benefits from faster traveler processing as a result of this rule due to the low number of crew aboard cargo trains, and CBP estimates them to be \$0. International rail passengers experienced an undiscounted annual benefit of \$4,240,290 during the voluntary reporting program and are expected to experience an undiscounted annual benefit of \$8,170,861 as a result of this rule compared to a baseline of no rule or voluntary reporting program. CBP experienced an average undiscounted annual benefit of \$459,823 as a result of the initial vetting during the voluntary reporting program and is expected to experience an undiscounted annual benefit of \$701,638 as a result of this rule compared to a baseline of no rule or voluntary reporting program.

In Table 24 below, the discounted benefits of this proposed rule are shown for passenger rail carriers, cargo rail carriers, rail passengers, and CBP. Passenger rail

carriers are expected to experience a total benefit from 2026 to 2030 of \$1,802,276 and \$1,553,251 using a 3-percent and 7-percent discount rate respectively. Annualized benefits for passenger rail carriers would be \$405,341. Cargo rail carriers are expected to experience only negligible benefits from this rule, and therefore CBP estimates them to be \$0. From 2026 to 2030, rail passengers are expected to experience a benefit of \$36,330,246 and \$31,310,416 using a 3-percent and 7-percent discount rate respectively. Annualized benefits for rail passengers would be \$8,170,861. CBP is expected to experience a benefit of \$3,119,704 and \$2,688,648 using a 3-percent and 7-percent discount rate respectively. Annualized benefits for CBP would be \$701,638.

Table 24. Summary of Discounted Benefits of Rule

Calendar Year	Passenger Rail Carriers		Cargo Rail Carriers		Rail Passengers		CBP	
	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate
2026	\$382,073	\$354,041	\$0	\$0	\$7,701,821	\$7,136,747	\$661,361	\$612,838
2027	\$370,945	\$330,879	\$0	\$0	\$7,477,496	\$6,669,857	\$642,098	\$572,745
2028	\$360,140	\$309,233	\$0	\$0	\$7,259,705	\$6,233,511	\$623,396	\$535,276
2029	\$349,651	\$289,003	\$0	\$0	\$7,048,257	\$5,825,711	\$605,239	\$500,258
2030	\$339,467	\$270,096	\$0	\$0	\$6,842,968	\$5,444,590	\$587,611	\$467,531
Total	\$1,802,276	\$1,553,251	\$0	\$0	\$36,330,246	\$31,310,416	\$3,119,704	\$2,688,648
Annualized Benefits	\$405,341	\$405,341	\$0	\$0	\$8,170,861	\$8,170,861	\$701,638	\$701,638

Note: Figures for 2026-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.
Figures may not sum to total due to rounding.

In Table 25 below, the discounted benefits are shown for passenger rail carriers, cargo rail carriers, rail passengers, and CBP relating to the voluntary reporting period from 2012 through 2025. Passenger rail carriers experienced a total benefit from 2012 to 2025 of \$2,667,560 and \$3,440,358 using a discount rate of 3-percent and 7-percent respectively. Passenger rail carriers experienced annualized benefits of \$160,806 and

\$163,242 using a discount rate of 3-percent and 7-percent respectively. From 2012 to 2025, cargo rail carriers experienced no benefits as they did not participate in the voluntary reporting program. Rail passengers experienced a total benefit of \$72,566,876 and \$96,025,942 during the voluntary reporting period using a 3-percent and 7-percent discount rate respectively. Annualized benefits for rail passengers were \$4,374,486 and \$4,556,343, using a 3-percent and 7-percent discount rate, respectively. CBP experienced total benefits of \$7,797,150 and \$10,198,237 when using a 3-percent and 7-percent discount rate. Annualized benefits for CBP were \$470,029 and \$483,897, using a 3-percent and 7-percent discount rate, respectively.

Table 25. Summary of Benefits of Voluntary Reporting Period (2012-2025)

Calendar Year	Passenger Rail Carriers		Cargo Rail Carriers		Rail Passengers		CBP	
	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate
2012	\$238,237	\$376,330	\$0	\$0	\$8,969,826	\$14,169,113	\$829,580	\$1,310,439
2013	\$240,637	\$365,911	\$0	\$0	\$8,448,436	\$12,846,606	\$808,167	\$1,228,891
2014	\$239,746	\$350,927	\$0	\$0	\$7,372,363	\$10,791,262	\$787,298	\$1,152,404
2015	\$172,239	\$242,689	\$0	\$0	\$7,266,698	\$10,238,966	\$759,183	\$1,069,709
2016	\$212,666	\$288,450	\$0	\$0	\$7,212,785	\$9,783,076	\$740,594	\$1,004,506
2017	\$340,999	\$445,224	\$0	\$0	\$6,892,969	\$8,999,786	\$723,910	\$945,171
2018	\$288,361	\$362,423	\$0	\$0	\$6,268,696	\$7,878,735	\$702,944	\$883,486
2019	\$290,642	\$351,634	\$0	\$0	\$5,032,436	\$6,088,510	\$631,921	\$764,531
2020	\$61,815	\$71,991	\$0	\$0	\$541,287	\$630,397	\$121,294	\$141,263
2021	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2022	\$30,326	\$32,727	\$0	\$0	\$609,172	\$657,405	\$89,779	\$96,888
2023	\$204,006	\$211,929	\$0	\$0	\$4,684,917	\$4,866,856	\$500,581	\$520,021
2024	\$140,244	\$140,244	\$0	\$0	\$4,129,673	\$4,129,673	\$540,929	\$540,929
2025	\$207,642	\$199,880	\$0	\$0	\$5,137,618	\$4,945,557	\$560,969	\$539,998
Total	\$2,667,560	\$3,440,358	\$0	\$0	\$72,566,876	\$96,025,942	\$7,797,150	\$10,198,237
Annualized Benefits	\$160,806	\$163,242	\$0	\$0	\$4,374,486	\$4,556,343	\$470,029	\$483,897

Note: Figures for 2025 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.
Figures may not sum to total due to rounding.

c. Net Impact of Rule

CBP estimated the net impact of the rule by subtracting the expected costs from the expected benefits. Undiscounted net benefits for the voluntary reporting period (2012-2025) and the regulatory period (2026-2030) are shown below in Table 26.

Passenger rail carriers experienced an average undiscounted annual net benefit of \$132,938 while participating in the voluntary reporting program and are expected to experience undiscounted annual net monetized benefits of \$346,911 as a result of this rule. The undiscounted annual net benefits for passengers under the voluntary reporting program were \$4,240,290 and are expected to increase to \$8,170,861 in time saved.

Cargo rail carriers experienced no net benefits under the voluntary reporting program and are expected to experience undiscounted annual net benefits of -\$380,495 (a net cost) as a result of this rule.⁴⁶ CBP's undiscounted annual net benefits averaged \$101,317 under the voluntary reporting program. CBP expects to see undiscounted annual benefits of \$62,567 as a result of this rule.

Table 26. Net Benefit (in undiscounted 2024 dollars)

Calendar Year	Passenger Rail Carriers	Cargo Rail Carriers	Rail Passengers	CBP	Total
2012	\$134,808	\$0	\$6,291,255	-\$1,505,395	\$4,920,668
2013	\$140,650	\$0	\$6,103,330	-\$76,118	\$6,167,862
2014	\$145,166	\$0	\$5,485,730	-\$74,181	\$5,556,715
2015	\$100,698	\$0	\$5,569,319	-\$77,956	\$5,592,061
2016	\$135,920	\$0	\$5,693,839	-\$75,440	\$5,754,320
2017	\$243,011	\$0	\$5,604,615	\$540,184	\$6,387,809
2018	\$208,193	\$0	\$5,249,934	\$540,101	\$5,998,228
2019	\$219,319	\$0	\$4,341,023	\$499,526	\$5,059,868
2020	\$49,699	\$0	\$480,927	\$97,886	\$628,511
2021	\$0	\$0	\$0	\$0	\$0
2022	\$23,653	\$0	\$574,203	\$77,640	\$675,495
2023	\$169,645	\$0	\$4,548,463	\$445,841	\$5,163,948

⁴⁶ This excludes any potential benefit of no longer having to completely stop a cargo train at the border as discussed in the section specific to cargo rail carrier benefits.

2024	\$108,700	\$0	\$4,129,673	\$496,348	\$4,734,721
2025	\$181,669	\$0	\$5,291,746	\$530,009	\$6,003,425
2026	\$346,911	-\$380,495	\$8,170,861	\$62,567	\$8,199,845
2027	\$346,911	-\$380,495	\$8,170,861	\$62,567	\$8,199,845
2028	\$346,911	-\$380,495	\$8,170,861	\$62,567	\$8,199,845
2029	\$346,911	-\$380,495	\$8,170,861	\$62,567	\$8,199,845
2030	\$346,911	-\$380,495	\$8,170,861	\$62,567	\$8,199,845
2012-2025 average	\$132,938	\$0	\$4,240,290	\$101,317	\$4,474,545
2026-2030 average	\$346,911	-\$380,495	\$8,170,861	\$62,567	\$8,199,845
Note: Figures for 2025-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts. CBP costs for 2012-2015 include R&D sunk costs. Figures may not sum to total due to rounding.					

All rail carriers, passengers, and the general public would benefit from increased national security as a result of this proposed rule though this remains a qualitative benefit. CBP believes that this benefit justifies the expected costs for cargo rail carriers.

Table 27 and Table 28 provide estimates of the discounted net benefits of this rule for the time period from 2026 to 2030. Passenger rail carriers are expected to experience a total net benefit of \$1,542,478 and \$1,329,350 using a 3-percent and 7-percent discount rate respectively and annualized benefits of \$346,911. Cargo rail carriers are expected to experience net benefits of -\$1,691,802 and -\$1,458,042 using a 3-percent and 7-percent discount rate respectively and annualized net benefits of -\$380,495.⁴⁷ Rail passengers are expected to experience net benefits of \$36,330,246 and \$31,310,416 using a 3-percent and 7-percent discount rate respectively and annualized net benefits of \$8,170,861. CBP expects to experience net benefits of \$278,193 and \$239,754 using a 3-percent and 7-percent discount rate respectively and annualized net benefits of \$62,567. Table 29 provides the undiscounted net benefits, present value of net benefits, and the annualized

⁴⁷ Negative net benefits reflect a net cost.

net benefits of the proposed rule. Passengers, passenger rail carriers, cargo rail carriers, and the general public would all benefit from the increased security that would result from this proposed rule though the benefits remain unquantified.

Table 27. Total Monetized Present Value and Annualized Net Benefits (2024 U.S. Dollars; 3% Discount Rate)

Calendar Year	Passenger Rail Carriers	Cargo Rail Carriers	Rail Passengers	CBP	Total
2026	\$326,997	-\$358,653	\$7,701,821	\$58,975	\$7,729,140
2027	\$317,473	-\$348,207	\$7,477,496	\$57,258	\$7,504,019
2028	\$308,226	-\$338,065	\$7,259,705	\$55,590	\$7,285,456
2029	\$299,249	-\$328,218	\$7,048,257	\$53,971	\$7,073,258
2030	\$290,533	-\$318,659	\$6,842,968	\$52,399	\$6,867,241
Total	\$1,542,478	-\$1,691,802	\$36,330,246	\$278,193	\$36,459,114
Annualized Benefits	\$346,911	-\$380,495	\$8,170,861	\$62,567	\$8,199,845
Note: Figures for 2026-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.					
Figures may not sum to total due to rounding.					

Table 28. Total Monetized Present Value and Annualized Net Benefits (2024 U.S. Dollars; 7% Discount Rate)

Calendar Year	Passenger Rail Carriers	Cargo Rail Carriers	Rail Passengers	CBP	Total
2026	\$303,006	-\$332,339	\$7,136,747	\$54,648	\$7,162,062
2027	\$283,183	-\$310,597	\$6,669,857	\$51,073	\$6,693,516
2028	\$264,657	-\$290,278	\$6,233,511	\$47,732	\$6,255,622
2029	\$247,343	-\$271,288	\$5,825,711	\$44,609	\$5,846,376
2030	\$231,162	-\$253,540	\$5,444,590	\$41,691	\$5,463,903
Total	\$1,329,350	-\$1,458,042	\$31,310,416	\$239,754	\$31,421,479
Annualized Benefit	\$346,911	-\$380,495	\$8,170,861	\$62,567	\$8,199,845
Note: Figures for 2026-2030 are based on an average of train crossings from 2015-2019 and an assumption of 0% growth based on communication with CBP subject matter experts.					
Figures may not sum to total due to rounding.					

Table 29. Summary of Total Net Benefits, CY2026-2030 (2024 U.S. Dollars)

	Undiscounted Net Benefits	3% Discount Rate		7% Discount Rate	
		Present Value	Annualized	Present Value	Annualized
Passenger Rail Carriers	\$1,734,556	\$1,542,478	\$346,911	\$1,329,350	\$346,911
Cargo Rail Carriers	-\$1,902,475	-\$1,691,802	-\$380,495	-\$1,458,042	-\$380,495
Rail Passengers	\$40,854,307	\$36,330,246	\$8,170,861	\$31,310,416	\$8,170,861
CBP	\$312,835	\$278,193	\$62,567	\$239,754	\$62,567
Total	\$40,999,223	\$36,459,114	\$8,199,845	\$31,421,479	\$8,199,845
Figures may not sum to total due to rounding.					

3. Regulatory Alternatives

CBP considered two alternatives to this rule but determined the rule was the optimal path forward to achieve the security benefits discussed above.

The first alternative to this rule was to keep the voluntary reporting program in place indefinitely. This alternative would effectively continue the costs and benefits of the voluntary reporting program into the future with no new costs or benefits. This alternative was rejected because not all rail carriers that cross the border are participating in the program and to achieve the security benefits stated earlier, CBP needs all carriers to participate. Since carriers may be withholding their participation until the program becomes mandatory, this proposed rule would be the catalyst carriers need to begin providing the necessary information to CBP to achieve the security benefits of this rule.

The second alternative to this rule was to subject only passenger rail carriers to the requirements in this proposed rule. This alternative would result in no new costs or benefits to cargo rail carriers but does not allow CBP time to effectively review traveler information on cargo trains before their arrival. This alternative was rejected as

insufficient since all rail carriers would need to participate for the stated security benefits of this rule to be achieved.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires agencies to assess the impact of regulations on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

CBP identified seven small U.S.-based cargo rail carriers that would be affected by this proposed rule. The smallest of these companies has an annual revenue of \$155,000 and the median annual revenue of the seven companies is \$2,576,000. CBP believes that implementation of this rule would not result in a significant cost to small cargo carriers. Using the sum of the time burdens for documents that would be required for each cargo train (a total of 0.1 hours or six minutes) and multiplying by the wage rate for a locomotive engineer (\$54.19) provides the cost per cargo train crossing the U.S. border which is \$5.42. At this rate, it would take 286 crossings for the smallest business to experience costs of around one percent of their revenue and 5,122 crossings for the median small business. CBP has determined this would not constitute a significant cost to small cargo rail carriers but requests comment on this.

There are currently no small U.S.-based passenger rail carriers that would be affected by this proposed rule.

CBP certifies that the proposed rule, if promulgated, would not have a significant economic impact to any U.S.-based small businesses.

C. Paperwork Reduction Act

The collections of information in this document will be submitted for OMB review in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651-0088. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. The collections of information for this rulemaking are included in an existing collection for the automated information collection system, APIS, under the OMB control number 1651-0088.

OMB-approved collection 1651-0088 would be amended to reflect the additional passenger rail carrier and cargo rail carrier respondents. We estimate that this rule would result in an additional 141,381 responses annually and 6,512 additional burden hours. The revision to the information collection would include 10,491 commercial passenger rail submissions, which would be an increase of the previously approved 9,540 total submissions annually. It would also establish new submission requirements for cargo rail carriers. This revision to this information collection would include 140,430 new cargo rail submissions annually.

Comments should be submitted to CBP and include the OMB Control Number 1651-0088 per the instructions outlined in the introductory text of this proposed rulemaking. The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the

burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden on those who are to respond, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs).

OMB collection 1651-0088, Passenger and Crew Manifest for Passenger Flights, would be revised to reflect the increased burden hours for the additional passenger rail carrier submissions and cargo rail submissions, for a total of 198,821,756 Estimated Number of Total Annual Responses, 1,004,608 Annual Burden Hours, as follows:⁴⁸

Commercial Airlines:

Estimated Number of Respondents: 1,130

Estimated Number of Total Annual Responses: 1,850,878

Estimated Time per Response: 10 minutes

Estimated Total Annual Burden Hours: 307,246

Commercial Airline Passengers (3rd party):

Estimated Number of Respondents: 184,050,663

Estimated Number of Total Annual Responses: 184,050,663

Estimated Time per Response: 10 seconds

Estimated Total Annual Burden Hours: 496,937

⁴⁸ OMB collection 1651-0088 includes burden hours for commercial airlines, private aircraft pilots, and bus passenger carriers, which are repeated here. This rule would not change the burden hours for these respondents.

Private Aircraft Pilots:

Estimated Number of Respondents: 460,000

Estimated Number of Total Annual Responses: 460,000

Estimated Time per Response: 15 minutes

Estimated Total Annual Burden Hours: 115,000

New: Commercial Passenger Rail Carrier:

Notice of Arrival/Departure:

Estimated Number of Respondents: 2

Estimated Number of Total Annual Responses: 3,497

Estimated Time per Response: 3 minutes

Estimated Total Annual Burden Hours: 175

Passenger Manifest:

Estimated Number of Respondents: 2

Estimated Number of Total Annual Responses: 3,497

Estimated Time per Response: 12.5 minutes

Estimated Total Annual Burden Hours: 729

Crew Manifest:

Estimated Number of Respondents: 2

Estimated Number of Total Annual Responses: 3,497

Estimated Time per Response: 3 minutes

Estimated Total Annual Burden Hours: 175

New: Commercial Cargo Rail Carrier:

Notice of Arrival/Departure:

Estimated Number of Respondents: 14

Estimated Number of Total Annual Responses: 70,215

Estimated Time per Response: 3 minutes

Estimated Total Annual Burden Hours: 3,511

Crew Manifest:

Estimated Number of Respondents: 14

Estimated Number of Total Annual Responses: 70,215

Estimated Time per Response: 3 minutes

Estimated Total Annual Burden Hours: 3,511

Bus Passenger Carrier:

Estimated Number of Respondents: 9

Estimated Number of Total Annual Responses: 309,294

Estimated Time per Response: 15 minutes

Estimated Total Annual Burden Hours: 77,324

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995, enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. *See* 2 U.S.C. 1532(a). This rule will not result in

the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Privacy Act

The information required to be transmitted under this rule would be retained in CBP systems in a manner consistent with all requirements of the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act). If this rule is finalized, CBP will issue or update any necessary Privacy Impact Assessment and/or Privacy Act System of Records Notice(s) to fully outline processes that will ensure compliance with Privacy Act protections. Current Privacy Act compliance documents related to the APIS system and the voluntary transmission of APIS data by rail carriers are available at <https://www.dhs.gov/publication/advanced-passenger-information-system-apis-update-national-counterterrorism-center-nctc>. *See also* footnote 1, above.

F. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) aims to promote regulatory transparency for proposed or final rules, the violation of which may constitute a criminal regulatory offense. Pursuant to section 8 of Executive Order 14294, the order does not apply to the enforcement of the immigration laws or regulations or to the enforcement of laws or regulations related to national security or defense. This proposed rule involves enforcement of the immigration laws and is related to national security. Accordingly, Executive Order 14294 does not apply.

Signing Authority

The signing authority for these amendments falls under 19 CFR 0.2(a).

Accordingly, this document is signed by the Secretary of Homeland Security (or the Secretary's delegate).

List of Subjects in 19 CFR Part 123

Canada, Freight, International boundaries, Mexico, Railroads, Reporting and recordkeeping requirements.

Proposed Regulatory Amendments

For the reasons stated in the preamble, CBP proposes to amend part 123 of title 19 of the Code of Federal Regulations (19 CFR part 123) as follows:

PART 123 – CBP RELATIONS WITH CANADA AND MEXICO

1. The authority citation is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1415, 1431, 1433, 1436, 1448, 1624.

* * * * *

2. Amend § 123.0 by revising the second sentence to read as follows:

§ 123.0 Scope.

* * * * * Included are provisions governing report of arrival, manifesting, unloading and lading, instruments of international traffic, shipments in transit through Canada or Mexico or through the United States, commercial traveler's samples transiting the United States or Canada, baggage arriving from Canada or Mexico including baggage transiting the United States or Canada or Mexico, electronic information for rail and truck

cargo in advance of arrival, and advance electronic information required for travelers arriving in or departing from the United States on board a train. * * *

3. Revise and republish § 123.6 to read as follows:

§ 123.6 Train Sheet for arriving railroad trains.

The conductor of a railroad train arriving from Canada or Mexico shall present to the CBP officer at the port of arrival individual car manifests and a train sheet, sometimes called a consist, bridge sheet, or trip sheet, listing each car and showing the car numbers and initials. However, a conductor of a railroad train arriving from Canada or Mexico without commercial cargo on board is not required to present individual car manifests or a train sheet if the carrier has transmitted the information in accordance with the provisions required by subpart K of this part.

4. Add a new subpart K to read as follows:

Subpart K – Advance Traveler Information for Rail

Sec.

123.100 Definitions.

123.101 Advance notice of arrival or departure for all trains with a traveler on board.

123.102 Advance electronic information required for all travelers arriving in the United States on board a train.

123.103 Advance electronic information required for all travelers departing from the United States on board a train.

123.104 Transmission to CBP.

123.105 U.S. military exemption.

123.106 Penalties.

123.107 Severability.

Authority: 6 U.S.C. 203, 211; 19 U.S.C. 1431, 1433, 1436.

§ 123.100 Definitions.

For purposes of this subpart, the following definitions apply:

Conductor means the railway employee charged with the management of a train and is also the direct supervisor of the train's crew.

Crew means any person serving on board a train in good faith in any capacity required for the normal operation and service of the trip including the conductor and engineer.

Depart and *Departure* mean the point at which the train doors are closed, and the train leaves the last station or stop prior to crossing the U.S. border on either an inbound or outbound trip.

DHS-approved travel document means a travel document approved by the U.S. Department of Homeland Security for travel in or out of the United States, such as a passport or other Western Hemisphere Travel Initiative (WHTI) approved document.

Emergency means an urgent situation due to a mechanical, medical, or security problem, natural or manmade disasters, evacuations due to chemical, biological, or radiological events, or the transport of emergency responders to such incidents.

Engineer means the individual(s) in charge of and responsible for the mechanical operation of a train.

Passenger means any person being transported on a train, including stowaways, who does not meet the definition of crew.

Station means a railroad facility where trains regularly stop to load or unload passengers or goods.

Stop means a railroad facility where trains can load or unload passengers or goods between stations or a railroad facility where the train stops only on a signal, known as a flag stop.

Train means any conveyance being used to provide railroad transportation for commercial or private purposes, including freight conveyances and passenger conveyances.

Traveler means any individual, including passengers and crew, who will cross the U.S. border while on board a train that will arrive in the United States from a foreign location or depart the United States for a foreign location, including a train that will cross the U.S. border while in transit.

United States means the continental United States and includes Alaska.

§ 123.101 Advance notice of arrival or departure for all trains with a traveler on board.

(a) *General requirements.* A rail carrier must electronically transmit to CBP an advance notice of arrival or departure providing the manifest information listed in paragraph (c) of this section for any train with a traveler on board arriving in the United States from a foreign location or departing the United States for a foreign location, including any train that crosses the U.S. border while in transit, unless the U.S. military exemption under § 123.105 applies. The electronic transmissions under this section must be made in accordance with § 123.104. The rail carrier may authorize another party to submit the notice of arrival or departure on the rail carrier's behalf. However, the rail carrier is responsible at all times for the transmission, accuracy, timeliness, and completeness of the transmitted information.

(b) *Deadline for transmission.* A rail carrier must electronically transmit the notice of arrival for an inbound train or the notice of departure for an outbound train

providing the information listed in paragraph (c) of this section no later than 24 hours prior to the train's arrival at a U.S. border crossing location.

(c) *Train and trip data required.* The rail carrier must transmit the following information constituting the notice of arrival or departure:

- (1) Rail carrier's code (as provided by CBP);
- (2) Trip number;
- (3) Train number;
- (4) Car numbers in order, if more than one car;
- (5) Place of origination (or code as provided by CBP);
- (6) Estimated local time and date that the train will leave from the origination station or stop;
- (7) Place of U.S. border crossing (or code as provided by CBP);
- (8) Estimated local time and date of arrival at the U.S. border crossing location;
- (9) Place of final destination (or code as provided by CBP);
- (10) Estimated local time and date of arrival at the final destination;
- (11) Complete itinerary, including all scheduled stops;
- (12) Information for a 24-hour emergency point of contact consisting of full name and phone number for the rail carrier (must be an individual who is knowledgeable about the particular trip); and
- (13) Rail carrier's name and address.

(d) *Changes to the advance notice of arrival or departure—*

(1) *Requirement to transmit changes.* If any of the information enumerated in paragraph (c) of this section changes after transmission to CBP and prior to the train

crossing the U.S. border, the rail carrier must transmit the new or revised information to CBP. The new or revised information must be transmitted prior to the train leaving the station or stop at which the rail carrier received the new or revised information or, if the information was received between stations or stops, no later than when the train leaves the next station or stop after receiving the information. If the rail carrier receives new or revised information after departure but prior to the train crossing the U.S. border, then the rail carrier must transmit such updated information to CBP prior to crossing the U.S. border.

(2) *Changes to border crossing time.* If there is a change of 30 minutes or more to the estimated time of arrival at the U.S. border crossing location, the rail carrier must, in addition to transmitting the updated estimated time of arrival as required by paragraph (d)(1) of this section, contact CBP at the border crossing location to confirm that CBP resources will be available to inspect the train. The carrier must contact CBP prior to departure or, if the change arises after departure, prior to arrival at the U.S. border crossing location.

§ 123.102 Advance electronic information required for all travelers arriving in the United States on board a train.

(a) *General requirements.* A rail carrier must electronically transmit to CBP the advance information listed in paragraph (c) of this section for all travelers on board a train arriving in the United States from a foreign location, including any train that crosses the U.S. border while in transit, unless the U.S. military exemption under § 123.105 applies. The electronic transmissions under this section must be made in accordance with § 123.104. The rail carrier may authorize another party to transmit the required

information on the rail carrier's behalf. However, the rail carrier is responsible at all times for the transmission, accuracy, timeliness, and completeness of the transmitted information.

(b) *Deadline for transmission.* A rail carrier must transmit the information listed in paragraph (c) of this section no later than 60 minutes prior to departure.

(c) *Traveler data required.* The rail carrier must transmit the following information for each traveler on board the train:

- (1) Full name (last, first, and, if available, middle);
- (2) Date of birth;
- (3) Sex;
- (4) Country of citizenship;
- (5) Country of residence;
- (6) DHS-approved travel document type, if a DHS-approved travel document is required;
- (7) DHS-approved travel document number, if a DHS-approved travel document is required;
- (8) DHS-approved travel document country of issuance, if a DHS-approved travel document is required;
- (9) DHS-approved travel document expiration date, if applicable, if a DHS-approved travel document is required;
- (10) Traveler's status on board the train (i.e., conductor, engineer, passenger, crew);

(11) Complete itinerary of traveler, including origination and designation station or stop;

(12) Address while in the United States (number and street, city, state, and zip code), except this information is not required for travelers who are in transit to a location outside the United States;

(13) Alien registration number, if applicable;

(14) Traveler's passenger name record locator, if available;

(15) Known traveler number, if applicable;

(16) Redress number, if applicable;

(17) Baggage tag information, if applicable;

(18) Seat location, including car and seat number, if available;

(19) Contact phone number, including country code. The carrier is required to request a phone number with country code from the traveler, and if the traveler provides one, the carrier must transmit it to CBP.; and

(20) Email address. The carrier is required to request an email address from the traveler, and if the traveler provides one, the carrier must transmit it to CBP.

(d) *CBP response message and requirements.* CBP will conduct vetting of the transmitted traveler information and will transmit a response message to the rail carrier. The response message will state either that CBP accepted the transmission or that the rail carrier must contact CBP prior to departure.

(e) *Changes to traveler data—*

(1) *Requirement to transmit changes.* Each time any of the information listed in paragraph (c) of this section changes after transmission to CBP and prior to the train

crossing the U.S. border, including if travelers get on or off the train prior to crossing the U.S. border, the rail carrier must electronically transmit the new or revised information. The rail carrier must transmit the new or revised information no later than when the train leaves the station or stop during which the rail carrier received the new or revised information. If the rail carrier receives new or revised information between stations or stops, the rail carrier must electronically transmit the new or revised information prior to departing the next station or stop. If the rail carrier receives the new or revised information after departure but prior to the train crossing the U.S. border, then the rail carrier must electronically transmit the new or revised information to CBP prior to crossing the U.S. border.

(2) *New response message required.* Upon receipt of the new or revised information required by paragraph (e)(1) of this section, CBP will vet the updated information and will transmit a response message to the rail carrier. The response message will state either that CBP has accepted the transmission or that the rail carrier must contact CBP prior to departure, or prior to the train crossing the U.S. border if the new or revised information was received by the rail carrier after departure.

(f) *Rail carrier responsibility for comparing information collected with travel documents.* The rail carrier collecting the information listed in paragraph (c) of this section is responsible for comparing the travel documents presented by the traveler with the travel document information it is transmitting to CBP to ensure that such information matches the information contained on the travel documents, the documents appear to be valid for travel purposes, and the traveler is the person to whom the travel documents were issued.

§ 123.103 Advance electronic information required for all travelers departing from the United States on board a train.

(a) *General requirement.* A rail carrier must electronically transmit to CBP the advance information listed in paragraph (c) of this section for all travelers on board a train departing from the United States for any location outside the United States, including any train that crosses the U.S. border while in transit, unless the U.S. military exemption under § 123.105 applies. The electronic transmissions under this section must be made in accordance with § 123.104. The rail carrier may authorize another party to submit the required information on the rail carrier's behalf. However, the rail carrier is responsible at all times for the transmission, accuracy, timeliness, and completeness of the transmitted information.

(b) *Deadline for transmission.* A rail carrier must transmit the information listed in paragraph (c) of this section no later than 60 minutes prior to departure.

(c) *Traveler data required.* The rail carrier must transmit the following information for each traveler on board the train:

- (1) Full name (last, first, and, if available, middle);
- (2) Date of birth;
- (3) Sex;
- (4) Country of citizenship;
- (5) Country of residence;
- (6) DHS-approved travel document type, if a DHS-approved travel document is required;

(7) DHS-approved travel document number, if a DHS-approved travel document is required;

(8) DHS-approved travel document country of issuance, if a DHS-approved travel document is required;

(9) DHS-approved travel document expiration date, if applicable, if a DHS-approved travel document is required;

(10) Traveler's status on board the train (i.e., conductor, engineer, crew, passenger);

(11) Complete itinerary of traveler, including origination and destination station or stop;

(12) Address while in the United States (number and street, city, state, and zip code), except this information is not required for travelers who are in transit to a location outside the United States;

(13) Alien registration number, if applicable;

(14) Traveler's passenger name record locator, if available;

(15) Known traveler number, if applicable;

(16) Redress number, if applicable;

(17) Baggage tag information, if applicable;

(18) Seat location, including car and seat number, if available;

(19) Contact phone number, including country code. The carrier is required to request a phone number with country code from the traveler, and if the traveler provides one, the carrier must transmit it to CBP.; and

(20) Email address. The carrier is required to request an email address from the traveler, and if the traveler provides one, the carrier must transmit it to CBP.

(d) *CBP response message and requirements.* CBP will conduct vetting of the transmitted traveler information and will transmit a response message to the rail carrier. The response message will state either that CBP has accepted the transmission or that the rail carrier must contact CBP prior to departure.

(e) *Changes to traveler data—*

(1) *Requirement to transmit changes.* Each time any of the information listed in paragraph (c) of this section changes after transmission to CBP and prior to the train crossing the U.S. border, including if travelers get on or off the train prior to crossing the U.S. border, the rail carrier must electronically transmit the new or revised information. The rail carrier must transmit the new or revised information no later than when the train leaves the station or stop during which the rail carrier received the new or revised information. If the rail carrier receives new or revised information between stations or stops, the rail carrier must electronically transmit the new or revised information prior to departing the next station or stop. If the rail carrier receives new or revised information after departure, but prior to the train crossing the U.S. border, then the rail carrier must transmit the updated information to CBP prior to crossing the U.S. border.

(2) *New response message required.* Upon receipt of the new or revised information required by paragraph (e)(1) of this section, CBP will vet the updated information and will transmit a response message to the rail carrier. The response message will state either that CBP has accepted the transmission or that the rail carrier

must contact CBP prior to departure or prior to the train crossing the U.S. border if the new or revised information was received by the rail carrier after departure.

(f) *Rail carrier responsibility for comparing information collected with travel documents.* The rail carrier collecting the information listed in paragraph (c) of this section is responsible for comparing the travel documents presented by the traveler with the travel document information it is transmitting to CBP in order to ensure that such information matches the information contained on the travel documents, the documents appear to be valid for travel purposes, and the traveler is the person to whom the travel documents were issued.

§ 123.104 Transmission to CBP.

A rail carrier must transmit the required advance electronic information pursuant to this subpart in accordance with either paragraph (a) or (b) of this section, except when an unforeseen circumstance allows for submission under paragraph (c), as follows:

(a) *Certified electronic transmission system option.* A rail carrier, upon obtaining CBP certification for an electronic transmission system in accordance with paragraph (a)(1) of this section, may make transmissions by means of the certified electronic transmission system configured to transmit data to CBP and receive from CBP appropriate messages.

(1) Before making any required advance electronic transmissions under paragraph (a) of this section, a rail carrier must subject its electronic transmission system to CBP for testing and CBP must certify that the rail carrier's system is capable of communicating with the CBP system for effective transmissions of data and receipt of appropriate messages.

(2) Such electronic transmission system may be configured to send and receive data either through interactive individual submissions, interactive batch submissions, or non-interactive batch submissions. If certified to do so, the carrier may use both an interactive batch transmission and interactive individual transmissions when transmitting information.

(3) If a rail carrier uses an interactive transmission method, the rail carrier must transmit to CBP a message no later than 30 minutes after departure listing all travelers who boarded the train. The message must identify the travelers by a unique identifier assigned by the rail carrier or by specific passenger data (e.g., full name).

(b) *Approved CBP electronic data interchange system option.* A rail carrier may make transmissions by any CBP-approved electronic data interchange system.

(c) *Alternatives under unforeseen circumstances.* On a limited case-by-case basis and upon request by a rail carrier, CBP may permit a rail carrier to submit the required information telephonically or through another approved alternative procedure when unforeseen circumstances preclude transmission of the information electronically under paragraph (a) or (b) of this section. Under such circumstances, CBP will manually enter the information provided by the rail carrier, vet the information, and send a response message to the carrier. CBP's response message may be received electronically, telephonically, or through another alternative procedure in such cases.

§ 123.105 U.S. military exemption.

No information is required under this subpart for active-duty U.S. military personnel traveling on orders as travelers on board a U.S. Department of War-chartered train.

§ 123.106 Penalties.

(a) *Civil penalties.* Violations of the advance notice of arrival or departure or advance traveler information requirements provided for in this part may result in certain civil penalties, as provided in section 436 of the Tariff Act of 1930, as amended (19 U.S.C. 1436), in addition to other penalties applicable under other provisions of law. Furthermore, any conveyance used in connection with any such violation is subject to seizure and forfeiture.

(b) *Criminal penalties.* Any person in charge of a train who intentionally fails to electronically transmit a required advance notice of arrival or departure or advance electronic traveler information, in accordance with this subpart, will be, upon conviction, subject to additional criminal penalties, as prescribed in section 436 of the Tariff Act of 1930, as amended (19 U.S.C. 1436). If the train has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is subject to additional criminal penalties as prescribed in section 436 of the Tariff Act of 1930, as amended (19 U.S.C. 1436).

(c) *Emergencies.* In cases of non-compliance with this subpart due to an emergency, CBP will take into consideration the circumstances of the emergency and whether, but for the emergency, the carrier would have been capable of making the required transmissions.

§ 123.107 Severability.

Any provision of this subpart held to be invalid or unenforceable by a court of competent jurisdiction as applied to any person or circumstance shall be construed so as

to continue to give the maximum effect to the provision permitted by law, including as applied to persons not similarly situated or to dissimilar circumstances, unless such holding is that the provision of this subpart is invalid and unenforceable in all circumstances, in which event the provision shall be severable from the remainder of this subpart and shall not affect the remainder thereof.

Markwayne Mullin,
Secretary,
U.S. Department of Homeland Security.

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