



Ottawa, January 28, 2015

# Memorandum D2-5-11

## Administrative and Operational Guidelines for Commercial Air-mode Carriers for the Processing of Prescribed Traveller Information Pursuant to the Requirements of the Canada Border Services Agency

### In Brief

This memorandum has been revised to clearly explain who is accountable for the provision of passenger information; define “commercial carrier”; outline message format and system outage requirements; offer a model privacy notice for travellers, and provide revised penalty information and contact information.

This memorandum outlines the Canada Border Services Agency’s (CBSA) requirements and administrative policies regarding the provision of prescribed advance passenger information and reservation information with respect to persons being transported to Canada by commercial air carriers.

### Legislation

[Customs Act](#), section 107(1)

[Immigration and Refugee Protection Act](#), section 148(1)(d)

## Guidelines and General Information

### Overview

1. Under Canadian law, all commercial air carriers are required to provide the CBSA with prescribed information relating to all persons travelling to Canada aboard a commercial carrier prior to its arrival in Canada from a foreign point of origin. This information will be used by the CBSA to perform a risk assessment of air travellers and crew while they are en route to Canada. Failure to provide the prescribed information in an approved format may result in the assessment of a penalty.
2. S. 107(1) of the [Customs Act](#) gives the Minister of Public Safety the authority to require certain persons to provide information to the CBSA. This authority is delegated to specified officials of the CBSA. The information to be provided and the conditions relating to the provision are set out in the [Passenger Information \(Customs\) Regulations](#) (PICR).
3. An officer of the CBSA also has the authority to require the provision of the prescribed information under subparagraph s. 148(1)(d) of the [Immigration and Refugee Protection Act](#) (IRPA). The persons who are required to provide the information, the information to be provided and the conditions for the provision are set out in s. 269 of the [Immigration and Refugee Protection Regulations](#) (IRPR).

### Accountability for Provision

4. The CBSA requires all air-mode commercial carriers to provide the prescribed information under s. 107(1) of the [Customs Act](#), as described in the [PICR](#), and the prescribed information under [IRPA](#) s. 148(1)(d), as described in [IRPR](#) s. 269. The prescribed information is the same under both acts, and so one transmission of the prescribed

information can satisfy both obligations. The CBSA's traveller targeting program is implemented only in the air mode. Therefore, the CBSA does not require commercial carriers in other travel modes (e.g., bus, rail, or marine) to provide the prescribed information.

5. In accordance with established best practices set out in the World Customs Organization's Guidelines on Advance Passenger Information and the International Civil Aviation Organization's Guidelines on Passenger Name Record Data, the CBSA holds the operating carrier of each flight responsible for the provision of all the prescribed information.

6. The CBSA expects the operating carrier to work with relevant industry partners to ensure that all of the prescribed information is provided within the prescribed timeframes.

## **Commercial Carrier**

7. The terms "commercial carrier" and "commercial transporter" are defined in the [PICR](#) and [IRPR](#), respectively. As the definitions are functionally identical, the term "carrier" is used throughout this document in place of both terms.

8. A commercial carrier is an operator of a commercial aircraft. A commercial aircraft is an aircraft, regardless of size, which is used in the commercial transportation of persons or goods, where the persons or goods are conveyed:

- (a) from outside Canada to a place inside Canada; or
- (b) from a place outside Canada in transit through Canada to another place outside Canada.

9. Examples of commercial carriers include operators of a scheduled air service, scheduled and unscheduled charters, air taxi and air commuter operations, and air cargo flights.

10. For greater certainty, the CBSA requires all commercial operators, including regional and local trans-border operators to provide the prescribed information. This requirement applies regardless of the number of persons on board or the frequency of a commercial carrier's operations. Commercial carriers are expected to provide the prescribed information for flights even if no commercial passengers or goods are on board (e.g., a "ferry flight"). However, commercial carriers are not expected to provide the data for flights bound for the United States that are stopping in Canada for the sole purpose of refuelling.

11. Operators of aircraft which are not "commercial aircraft" by the definition above are not required to provide the prescribed information. Examples of non-commercial aircraft include aircraft used for personal transportation or corporate/business aircraft, where there was no exchange of money for transportation.

12. A state directly operating a flight (e.g., a military flight) is not required to provide the prescribed information. However, where a state has paid for a commercial charter flight, the commercial charter carrier is required to provide the information. Commercial charter carriers must work with their state clients to ensure that the prescribed information is provided to the CBSA.

## **Prescribed Information**

13. The law requires carriers to collect and provide specific prescribed information, as described in [PICR](#) s. 3(a)-(f) and [IRPR](#) s. 269(1)(a)-(f). The prescribed information includes the following: surname, first name and any middle names; date of birth; gender; citizenship or nationality; the travel document type that identifies them, the name of the country that issued the travel document, and the number on the travel document; and, as applicable, the reservation record locator number or notification of their status as a crew member. This information is commonly called Advance Passenger Information (API).

14. Additionally, per [PICR](#) s. 3(g) and [IRPR](#) s. 269(2), the law requires carriers to provide all "reservation information" collected about all persons being transported to Canada. For greater certainty, "reservation information" includes any information collected by a carrier about the persons being carried to Canada. This information is commonly called Passenger Name Record (PNR). This information may include information aggregated from various sources (e.g., global distribution systems, airline reservation systems, and departure control systems). Operating carriers are expected to work with their industry partners to ensure that all the prescribed information is provided to the CBSA.

15. In practice, the CBSA does not use all the information potentially collected by the travel industry. A list of data types that are currently used by the CBSA's programs is published in the API-PNR Client Implementation Guide. Carriers are not required to provide elements they have collected for their business purposes that are not included on this list. Carriers and their industry partners who provide the data types listed in the API-PNR Client Implementation Guide will be considered to be compliant with [PICR](#) s. 3(g) and [IRPR](#) s. 269(2) even if they collect additional data for their own business purposes.

16. The prescribed information must be provided about every person being carried to Canada. This includes fare-paying passengers, all crew whether on-duty or off-duty (e.g., dead-heading or relief pilots), and any other person who is on the aircraft when it departs bound for Canada.

17. Despite the phrase "expected to be on board" in s. 107(1) of the [Customs Act](#), the CBSA does not require that carriers provide the prescribed information before the travellers board the flight, or about travellers who made a reservation but did not board the flight ("no-shows").

## Timeframes

18. Carriers are required to provide the prescribed information no later than at the time of departure of the flight from the last place persons boarded the conveyance before arriving in Canada. The CBSA discourages carriers from providing the prescribed information significantly before the time of departure due to the risk of last minute changes which may make the provided information incorrect. "Time of departure" is defined as "wheels-up", the time the aircraft takes flight on the leg that will end in Canada.

## Message Format

19. The CBSA encourages operating carriers and their industry partners with high traveller volumes or frequent service to use Electronic Data Interchange (EDI) systems to provide the prescribed information. There are two options for EDI connections. Carriers and their industry partners can establish a direct connection with the CBSA's data acquisition system; or, they can make arrangements with a service provider to provide the information on their behalf. The CBSA collects a cost-recovery fee for all direct connections.

20. Alternatively, carriers and their industry partners may choose to use the CBSA Internet API Gateway (IAG). The IAG allows the provision of the prescribed information using e-mail or through a secure internet portal.

21. Technical parameters for provision of the prescribed information using EDI or through the IAG are described in the API-PNR Client Implementation Guide. The Guide is provided on request by the CBSA Client Account Managers.

22. The API-PNR Client Implementation Guide also details the CBSA's requirements for message content and formatting. The CBSA supports the industry-standard UN/EDIFACT and PNRGOV message formats, as well as others.

23. It is critically important that the contextual information that accompanies the prescribed information is correct. Inaccuracies in flight number or scheduled times of departure or arrival can cause the information to be processed incorrectly by the CBSA's systems. The CBSA expects carriers to ensure that this contextual information is accurate. The CBSA does not accept non-electronic transfers (e.g., faxes) of the prescribed information.

## System Outages, Changes and Occurrences

24. Operating carriers, or their industry partners, who are planning system changes that might affect their information processing or transmission systems are expected to notify the CBSA at least six months before the changes are implemented. The CBSA will work with the carrier and their partners to ensure that there is no interruption in the provision of the prescribed information. System changes do not relieve the carrier of the obligation to provide the prescribed information.

25. Operating carriers are expected to have a secondary method of transmission for the provision of the prescribed information in the case of a primary system outage. System outage procedures are described in the API-PNR Client Implementation Guide. A system outage does not relieve the carrier of the obligation to provide the prescribed information.

26. The CBSA also expects operating carriers to provide corrected information where there is a change to contextual information (e.g., scheduled time of arrival or destination) due to an occurrence. Procedures are described in the API-PNR Client Implementation Guide.

27. Occurrences such as routine delays, or diversions due to medical emergencies or weather, may result in the diversion of a flight bound for a third country to a Canadian airport of entry. The CBSA does not require that the prescribed information be provided in these circumstances, and will not assess any administrative monetary penalties regarding such flights. However, the CBSA requires that an occurrence report is filed for any flight diverted to Canada.

## New Carriers

28. Operating carriers who intend to commence service to Canada are encouraged to contact the CBSA at least six months before commencing flights in order to establish and test their arrangement for the provision of the prescribed information. New carriers are required to provide the prescribed information on their first arrival; no exception or phase-in period exists.

## Notice to Travellers

29. The CBSA encourages carriers to inform their clients and personnel about the provision of prescribed information to the CBSA and about the CBSA's programs. Legislation in place in other jurisdictions may require carriers to provide notice to travellers when the carrier provides information to the CBSA. The CBSA recommends a notice to travellers contain the following:

The CBSA is authorized to collect advance information under s. 107(1) of the [Customs Act](#) and s.148(1)(d) of the [Immigration and Refugee Protection Act](#). The CBSA uses the prescribed information to identify persons who may pose a threat to Canada's safety or security. These persons may be subject to investigation, and may undergo closer questioning or examination on arrival in Canada. All travellers to Canada may request a copy of the prescribed information provided about them by making a request in writing to the CBSA. Any traveller who believes that the prescribed information provided about them was incorrect may make a request in writing to the CBSA to have the information corrected. Any traveller may complain in writing to the CBSA if they believe that the CBSA has unfairly refused to provide access to the prescribed information provided about them, has not corrected the prescribed information provided about them, or has otherwise incorrectly handled the prescribed information provided about them. Travellers can obtain more information by consulting the "[Advance Passenger Information / Passenger Name Record](#)" program.

## Reporting for Customs and Immigration Inspection

30. The requirement to provide the prescribed information does not relieve carriers of the requirement to present all travellers (passengers, crew and any other persons on board) for inspection upon arrival. Small commercial carriers who request authorization to report for CBSA inspection by alternate means, for example by telephone under the Telephone Reporting Centre (TRC) Program, are nonetheless required to provide the prescribed information. Small carriers that do not meet the requirements of the TRC Program must make arrangements for CBSA clearance directly with the CBSA office located at the airport of landing. Procedures for access to airports may be found in the [Memorandum D2-5-1, Charter Access to Airports](#).

## Contact Information

31. CBSA Client Account Managers are the primary point of contact for program-specific inquiries from carriers.

Telephone:

**1-866-427-4767** (toll free in North America) for immediate assistance between 8:00 and 16:00 ET weekdays only.

1-613-219-8452 (charges apply) for immediate assistance from 16:00 to 8:00 ET weekdays, weekends and Canadian holidays.

Email: [api-pnr@cbsa-asfc.gc.ca](mailto:api-pnr@cbsa-asfc.gc.ca) or [ipv-dp@cbsa-asfc.gc.ca](mailto:ipv-dp@cbsa-asfc.gc.ca)

## Penalty Information

32. Carriers who fail to comply with the requirement to provide the prescribed information in the prescribed manner and in the prescribed time are subject to administrative monetary penalties under the [Customs Act](#). The penalty is assessed on a per-flight basis. The amount of the penalty is \$3000.

33. Non-compliance occurs when a commercial carrier or charterer fails to provide information as stipulated in the [PICR](#), on persons (passengers and crew) on board a conveyance prior to the arrival of the conveyance in Canada. Where the CBSA determines that the carrier made all efforts to provide the prescribed information, a zero-dollar penalty may be assessed on a case-by-case basis.

34. The CBSA considers that the prescribed information has been provided if the information is:

- (a) Complete: All the listed elements of the prescribed data are collected and provided. Where reservation information is collected about any person on board, it is provided.
- (b) Accurate: The prescribed information correctly describes the traveller. The CBSA expects carriers to verify travel documents and correct any errors. Carriers are not responsible for errors made by governments in the issuance of documents.
- (c) Timely: The CBSA requires sufficient time to process the prescribed information for the program purposes identified above. The information is considered “timely” if it is received at or before the “Actual Time of Departure”, as reported to the CBSA by air traffic control authorities, of the aircraft on the leg that will end in Canada.
- (d) Readable: the information must be provided in an approved format that can be processed by CBSA systems.

**Note:** The CBSA will communicate with carriers to resolve issues with formatting, the accuracy of contextual data, or other issues which affect the processing of the data.

35. [Memorandum D22-1-1, Administrative Monetary Penalty System](#) describes how the CBSA enforces compliance with the [Customs Act](#) and related regulations. The details of the administrative monetary penalties related to the provision of the prescribed information are published in the CBSA Master Penalty Document.

## Additional Information

36. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time/except holidays). TTY is also available within Canada: **1-866-335-3237**.

References	
<b>Issuing Office</b>	Program and Policy Management Division Traveller Programs Directorate Programs Branch
<b>Headquarters File</b>	
<b>Legislative References</b>	<a href="#">Customs Act</a> <a href="#">Passenger Information (Customs) Regulations</a> <a href="#">Immigration and Refugee Protection Act</a> <a href="#">Immigration and Refugee Protection Regulations</a>
<b>Other References</b>	D2-5-1 and D22-1-1
<b>Superseded Memorandum D</b>	D2-5-11 dated May 31, 2006