



DHS Launches Initiatives to Strengthen Private Aircraft Security

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Office of the Press Secretary
Contact: 202-282-8010

Notice of Proposed Rulemaking: Advance Information on Private Aircraft Arriving and Departing the United States
eAPIS for International Private Aircraft FAQs (PDF, 4 pages - 65 KB)

The U.S. Department of Homeland Security (DHS) announced today new efforts to further improve aircraft security in the United States. DHS is working to strengthen security associated with private aircraft by publishing a Notice of Proposed Rulemaking (NPRM) which will require more detailed information about arriving and departing private aircraft and persons onboard within a timeframe necessary to assess the risks that certain flights may pose to national security.

DHS is working through U.S. Customs and Border Protection (CBP) to identify and vet passengers and crew on inbound and outbound international private aircraft, generally defined as non-commercial flights.

"This rule is designed to further protect the nation by improving our ability to identify threats on flights to and from the United States," said Homeland Security Secretary Michael Chertoff. "We have a similar rule in place that allows us to assess the risk of commercial aircraft passengers on these flights and we are now taking steps to expand that capability to include passengers on international flights by private aircraft."

The NPRM, *Advanced Information on Private Aircraft Arriving and Departing the United States*, expands existing regulations that will require pilots of private aircraft to provide electronic manifest data for all persons traveling onboard to the United States Government one hour prior to departure to and from the United States by filing manifest data via CBP's eAPIS system or an approved alternate system.

The NPRM would require operators of private aircraft to provide the following information no less than 60 minutes prior to departure from or to a foreign port or place: advance notice of arrival, complete passenger and crew manifest data and aircraft information to foster aircraft identification, tracking and communication.

DHS is considering a phased approach to implement the proposed security measures. Under Phase I, DHS will publish the NPRM to elicit public comments prior to issuance of a final rule and implementation of the new requirements. Under Phase II, and in close cooperation with the private aircraft owners and operators as well as foreign partners, DHS will develop methods and processes to address additional security vulnerabilities for international private aircraft operations at their last point of departure prior to entering U.S. airspace.

The Notice of Proposed Rulemaking is currently available at www.dhs.gov and will soon be published in the Federal Register. Once published, persons wishing to comment on the proposed rule may access the Federal e-Rulemaking Portal at www.regulations.gov and follow the instructions for submitting comments. Submissions must include the agency name and docket number: "USCBP 2007-0064."

For more information, visit www.dhs.gov.

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Frequently Asked Questions

eAPIS for International Private Aircraft

1. **Is there any specific threat or increase in risk that this initiative is intended to address? How significant is the threat to the United States from private aircraft?**

DHS is concerned that private aircraft may be used to transport terrorists to the United States. The proposed rule addresses the spectrum of risks associated with not having vetted passengers, crew, or aircraft prior to arrival in the United States and provides an additional layer of security for international private aircraft operations.

2. **What universe is DHS trying to capture by developing this program? What types and sizes of aircraft will be impacted by this proposed rule? What aircraft operators, airport operators, and other entities that will be affected?**

DHS analyzed seven years of Federal Aviation Administration (FAA) international private aircraft arrival data, augmented by CBP international arrival data, and determined that, on average, approximately 400 non-commercial aircraft enter the United States from foreign locations each day, exclusive of helicopter operations in the Gulf of Mexico. A large volume and wide variety of aircraft enter the U.S. from the Caribbean (many originating at points more distant and transiting through the Caribbean to enter the US). The bulk of the remaining traffic is trans-Atlantic traffic from Europe; traffic from Asia, Africa and other locations is relatively light in comparison.

CBP will issue an NPRM requiring pilots or operators of all international private aircraft to submit passenger and crew information one hour before departure for CBP vetting.

3. **With respect to the types of aircraft regulated or targeted under this initiative, what types of risks/threats are being addressed?**

DHS uses a risk based, threat management approach to analyze risks, prioritize vulnerabilities, and to ensure that threats, vulnerabilities, and consequences are appropriately addressed. The strategy for international private aircraft incorporates a layered approach to focus on all operations.

This NPRM will expand vetting of all persons aboard private aircraft against government databases.

4. **Why are charters excluded from this?**

Charter aircraft are considered commercial aircraft and not private aircraft. International commercial aircraft are already required to provide advance passenger information to CBP.

5. What is being done concurrently with this initiative to improve early detection and characterization of private aircraft entering U.S. airspace, especially small planes from Mexico, Canada, or the Caribbean?

Surveillance capabilities remain a vital component of DHS' aviation security efforts. DHS is engaged in several initiatives to improve the detection of aircraft within and entering U.S. airspace.

CBP, through its Long Range RADAR Joint Program Office, continues to work with Department of Defense, Office of Science and Technology, the FAA and other agencies to extend the service life of the current primary surveillance coverage system across the nation.

In addition DHS has assigned representatives to the Joint Planning & Development Office Next Generation Air Traffic System initiative to identify replacement sensor technology to meet current and future security needs.

TSA, with FAA, is also jointly developing the Automatic Detection and Processing Terminal (ADAPT), a new tool designed to enhance overall airspace surveillance and awareness capabilities.

6. Is there a reason for the difference between the time deadline for transmission of data for commercial operations and that of the proposed program for general aviation operations?

For international flights, CBP's NPRM will set a timeframe of 60 minutes prior to departure for private aircraft. This will include notice of arrival, passenger and crew information. Commercial aircraft provide crew information 60 minutes prior to departure. CBP has published a final rule for commercial aircraft requiring the APIS transmission 30 minutes prior to securing of the aircraft doors (APIS 30 interactive and non-interactive) and up to the time the aircraft doors are secured for APIS Quick Query (AQQ) transmissions. This rule takes effect February 19, 2008.

The timeframe for private aircraft may be adjusted (if appropriate) based on the comments received following the publication of the Notice.

7. Will there be any exceptions from CBP's one hour advance passenger information rule for emergency situations (e.g., urgent medical care)?

Yes, the rule is envisioned to contain exemptions for emergency landings.

8. Would the private and commercial APIS screening programs be linked?

It is anticipated that the commercial and private aircraft systems will operate as parts of a common system.

9. What fees does DHS expect to impose on general aviation because of this proposed system?

No fees are anticipated to be imposed.

10. What will be the cost to the aircraft operator? How is the figure being calculated? Does the cost justify the benefit?

The total annual cost of the proposed rule is expected to be approximately \$9 million. Over 10 years, this would total a present value cost of \$66 million.

11. What is DHS's ability to enforce this new regulation?

Pursuant to 19 U.S.C. § 1433(c), the Secretary of Homeland Security has broad authority to regulate all aircraft, including private aircraft, arriving in and departing from the United States. Under § 1433(c), the pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign location is required to comply with such advance notification, arrival reporting, and landing requirements as regulations may require. This statute provides CBP with the authority to deny landing rights to aircraft within the United States based on security and/or risk assessments, or based on those assessments to specifically designate and limit the airports where aircraft may land. An aircraft pilot is required to present or transmit to CBP through an electronic interchange system such information, data, documents, papers or manifests as the regulations may require (19 U.S.C. § 1433(d)). Section 1433(e) provides, among other things, that aircraft after arriving in the United States or Virgin Islands may only depart from the airport in accordance with regulations prescribed by the Secretary. Additionally, pursuant to 19 U.S.C. §§ 1644a and 1644, the Secretary can designate ports of entry for aircraft and apply vessel entry and clearance regulations to civil aviation.

In addition, DHS, in close coordination with DOT and DOD, is responsible for the monitoring, tracking, and interdiction of non-compliant aircraft. DHS has responsibility for the homeland security mission, DOT has responsibility for the safe and efficient operation of the National Airspace System, and DOD has responsibility for the homeland defense mission. These mutually supporting missions provide assurance that non-compliant aircraft are readily identified, intercepted, and appropriately responded to.

12. Will this significantly impact general aviation operations into the United States?

The Department of Homeland Security does not expect the eAPIS requirement to significantly impact general aviation operations inbound to the United States from a foreign location. The process of submitting manifest information to U.S. Customs and Border Protection aligns with current operational processes. The eAPIS rulemaking will simply require the information to be submitted in advance of current submission requirements. It should be noted the proposed CBP requirements do not in any way relieve pilots of other international arrival requirements imposed by other US agencies or Departments or foreign governments, unless the agency or government specifically provides for such relief.

Currently, private aircraft must provide advance notification of intent to land to Customs and Border Protection (CBP). This is usually one hour prior to arrival, but may vary with location. The pilot may call the local CBP port office or route notification through FAA. Notification to CBP includes aircraft type, registration number, pilot name, port of departure, airport of arrival, number of US and alien passengers and estimated time of arrival. Additional information, including information about the passengers, is currently collected by CBP upon arrival of the aircraft in the United States. This NPRM will require the advance notification along with passenger and crew information prior to departure. This will provide an opportunity to assess the risk of the flight before it takes off from the foreign airport.

The industry will benefit from having a more structured means to formally notify CBP regarding arrival from foreign locations. Currently there is not a definitive means by which pilots can confirm CBP's receipt of arrival data transmission. This could lead to unintentional violation of an aircraft operator due to CBP being unaware of an aircraft

arrival due to miscommunications. With the new E-APIS requirements pilots will receive documented confirmation of successful data transmission. From an operational perspective GA operations will not be unduly impacted by this requirement. Preflight preparation and flight planning typically requires at least one to two hours to perform. The E-APIS submission process has been designed to integrate seamlessly within these existing activities.

Moreover, unlike commercial aviation operations, where manifests may change at the last minute due to connecting passengers and check-in counter ticket purchases, general aviation operators are generally likely to know who will be traveling on the aircraft in advance of departure.