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## **Securing Private Aviation:** CBP Imposes Regulations Requiring Detailed Passenger Information Before Entering or Leaving the United States

The U.S. Bureau of Customs and Border Protection (CBP) published a final rule in the Federal Register on November 18, 2008 that will require all private aircraft pilots to transmit detailed passenger information to the CBP for any flight arriving into or departing from the U.S. The rule amends Title 19 of the Code of Federal Regulations (CFR) part 122, becomes effective on December 18, 2008, and requires private aircraft pilot compliance by May 18, 2009. The new regulations have been promulgated in an effort to strengthen general aviation security and further minimize certain vulnerabilities associated with private aircraft flights. These regulations will have a significant impact on ALL private aircraft operators.

Currently, CBP regulations require all aircraft, except scheduled airline flights, entering the U.S. from a foreign country to provide advance notice of arrival into the U.S. This requirement also mandates certain general passenger information be provided, including information about the number of alien passengers and number of U.S. citizen passengers, to the port director at the place of first landing by radio, telephone, or other method, or through the Federal Aviation Administration (FAA)'s flight notification procedure.

The new regulations require the submission of much more detailed information on each individual onboard flights arriving into or departing from the U.S. Private aircraft pilots operating under 14 CFR part 91 or part 125, or their designated agents, must now submit an electronic manifest to the CBP that includes the following information about each individual onboard the aircraft:

- full name
- date of birth
- gender
- citizenship
- country of residence
- status on board the aircraft
- Department of Homeland Security (DHS)-approved travel document type, number, country of issuance and expiration date (where applicable)
- alien registration (where applicable)
- address while in the U.S.



Additionally, the CBP regulations require that information about the aircraft be submitted. This notice of arrival or departure must include the following information about the aircraft:

- tail number
- type
- call sign (if applicable)
- color
- CBP issued decal number (if applicable)
- place of last departure
- date and estimated time of arrival or departure
- estimated time and location of crossing the U.S. border/coastline
- name of intended airport of first landing
- owner/lessee name and address
- pilot/private aircraft pilot name
- pilot's license number and street address
- pilot's license country of issuance
- operator name and address
- complete itinerary
- 24-hour emergency point of contact

The private aircraft pilot bears the responsibility for submitting the information required on the electronic manifest and the notice of arrival and departure at least 60 minutes prior to departure from the foreign port before entering the U.S. or at least 60 minutes prior to departure from the U.S. CBP anticipates handling the volume of private aircraft submissions through the enhanced capabilities of the eAPIS portal and other CBP-approved submission methods. Penalties for non-compliance range from progressive civil penalties to criminal penalties for intentional failure to comply.

It is important to note that these CBP regulations apply to all private aircraft operations, regardless of any deviations or exemptions granted by the FAA. For example, Title 14 CFR part 125.383 details the requirements for load manifests, which includes a requirement for passenger names. Many operators have a deviation from the FAA which exempts them from the requirement for passenger names contained in 14 CFR 125.383 (a)(8). These operators are still subject to new CBP regulations regarding electronic manifests and notice of arrival and departure.

This may be a challenging transition period as operators strive to comply with the new regulations and CBP attempts to process a much larger volume of information. TWG professionals are available to discuss how the new CBP regulations will affect your operation, as well as to assist you in developing adequate policies and procedures to ensure compliance with the new CBP regulations.