

Immigration Alert: Change in Requirements for Private Aircraft Arriving and Departing the United States

12/3/2008

On November 18, 2008, U.S. Customs and Border Protection (CBP), in an effort to improve and standardize international and domestic general aviation security, published new regulations in the Federal Register that changed the requirements for private aircraft. The new regulations require advance notice of a private aircraft's arrival from a foreign country and/or departure to a foreign country and standardize the collection of travel manifests documenting all persons on board. The new process outlined in this rule change is similar to the process currently employed by commercial aircraft, as CBP seeks to standardize advance notice procedures for all CBP airports of entry in the United States.

Previously, pilots of private aircraft entering the U.S. from abroad were required to notify the CBP directly (at the place of intended arrival) at least 60 minutes prior to *arrival*, or, alternatively, by requesting in the "remarks" section of their Federal Aviation Administration (FAA) flight plan that the FAA share this information directly with CBP. Some CBP offices also requested that detailed information about passengers, crew, and the aircraft itself be faxed in advance to CBP, but this practice was not in effect at all CBP offices.

The new regulations require pilots (or their designees) to submit advance notice and passenger/crew manifest information to the CBP no later than 60 minutes prior to *departure* from the foreign airport of origin. This notice is to be provided through the Electronic Advance Passenger Information System (eAPIS), an electronic data interchange system overseen by CBP. CBP now also requires the pilot (or their designee) to compare the data contained in the flight manifest with the information on a Department of Homeland Security approved travel document presented by each individual seeking to travel on the aircraft. CBP will now also issue departure authorization to pilots (or their designees) through the eAPIS system.

In addition, CBP will begin requiring all private aircraft departing from the United States to a foreign location to obtain permission to depart using the same eAPIS system.

The final rule (E8-26621), published in the Federal Register, becomes effective on December 18, 2008.

For more information about private air travel, please refer to the *Guide for Private Flyers*.

If you would like more information on any immigration matter, please contact your immigration attorney at Mintz Levin or visit www.mintz.com.

Susan J. Cohen
(617) 348-4468
SCohen@mintz.com

Jeffrey W. Goldman
(617) 348-3025
JGoldman@mintz.com

Reena I. Thadhani
(617) 348-3091
RThadhani@mintz.com

Molly Carey
(617) 348-4461
MCarey@mintz.com

William L. Coffman
(617) 348-1890
WCoffman@mintz.com

Brian J. Coughlin
(617) 348-1685
BJCoughlin@mintz.com

Lorne M. Fienberg
(617) 348-3010
LFienberg@mintz.com

Marisa C. Howe
(617) 348-1761
MHowe@mintz.com

Bethany S. Mandell
(617) 348-4403
BSMandell@mintz.com

Timothy P. Rempe
(617) 348-1621
TRempe@mintz.com