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U.S. Customs and Border Protection
1300 Pennsylvania Ave., NW
Washington, DC 20229

Via Regulations.gov

RE: Docket No. USCBP-2023-0002; Advance Passenger Information System: Electronic Validation of Travel Documents

These comments are being provided in response to Docket Number USCBP-2023-0002. The agency is proposing amendments to 19 CFR part 122 which include adding requirements for commercial air carriers to assist CBP in determining whether passengers have valid, authentic travel documents prior to boarding the aircraft by using the Document Validation Program (DVP). The proposed regulations would also require commercial air carriers to transmit additional data elements through APIS for all commercial aircraft passengers arriving, or intending to arrive, in the United States in order to support border operations and national security and safety.

The proposed rulemaking states that it is intended to be for "commercial aircraft arriving in or departing from the United States" to enhance security. The agency's goal of enhancing security, however, can be achieved in a much less burdensome and less costly manner, by enhancing the use of the Single Syntax Program to be the industry standard for non-scheduled general aviation flights. The aviation sector has two main groups - scheduled commercial airlines and non-scheduled general aviation. Non-scheduled general aviation operates much differently than commercial airlines on every level. Therefore, the submission methods should be the same for all general aviation flights.

CBP, however, attempts to separate general aviation flights into two categories - commercial and private - and then to require two different standards for submission. There is no legitimate basis for requiring a portion of non-scheduled general aviation flights to comply with commercial airline rules. Non-scheduled flights are different from commercial airline flights in almost every respect. The agency's security goals are about what happens prior to a flight ever leaving the ground.



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Accordingly, carving out a subset of general aviation flights does not further the NPRM's stated goals, because regardless if the flight is private or commercial, once the flight is in the air has no correlation to pre-flight security.

Further, the flights CBP would categorize as non-scheduled commercial general aviation flights are almost identical to other general aviation flights in many respects. This includes but is not limited to the fact that they: (1) are non-scheduled operations; (2) fly a small number of passengers; (3) operate from hundreds of small airports that commercial airlines do not use; (4) are already handled the same way by CBP policies and practices (which are different from the way CBP handles airlines; (5) do not use reservation systems or other automated systems like those used in the airlines; and (6) do not use interactive traveler security processes, formal interactive traveler check-in, boarding messages, standard check-in kiosks, or flight closeout messages/door closure. Additionally, there are currently no connections to CBP's Document Validation Program (DVP) in non-scheduled environments. The agency spent a decade collaborating with the airlines to develop how the DVP would work for them but has not provided any information about how the DVP requirement would be implemented for non-interactive users. Therefore, this rule should not be applied to non-scheduled carriers.

CBP has requested that the following topics be addressed, and we have addressed them in order below: (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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden 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).

First, this rule would require the collection of additional information, such as phone numbers and email addresses and the agency has failed to establish a direct connection between gathering that information and the proper performance of the functions of the agency in regard to the security of the United States. CBP has not shown that this information is necessary for the proper performance of its functions, or the practical utility of the information. The agency has simply stated it "has concluded that the inclusion [of this data] . . . will enable CBP to further mitigate risks to border, national and aviation security. There is no evidence to support this statement.



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Further, while the agency provided anecdotal examples stating that “document validation instructions have the potential to increase security and safety for the commercial air industry,” it provides no actual evidence that this is actually needed or likely to occur.

Second, the agency has not accounted for the burden the new requirements would have on non-scheduled operators who don’t have the systems in place to comply with these commercial airline rules, nor has the agency provided an adequate alternate compliance option for operators using eAPIS.

Further, the agency states that “because the passenger generally provides most of these data elements when booking a ticket for air travel” the estimated time burden has not increased. This is incorrect however for general aviation operations and shows that the agency is focused on how the airlines operate. Because no tickets are booked for general aviation flights, this data is not currently collected.

In the non-interactive environment, non-scheduled aircraft operators partner with CBP to validate APIS traveler documentation, aircraft, and operator information while securing permission to land at a CBP port. Permission to land occurs at non-standard times across the 400+ CBP Airport of Entry (AOE) ports, and there is no advanced ticketing system for individual travelers to interact with and submit data to prior to this engagement with CBP by the operator. Document validation in the unscheduled environment is completed with a one-on-one transaction with a CBP officer to obtain permission to land after non-interactive APIS data is transmitted.

In contrast, airlines receive permission to land in bulk that is not associated with actual travelers or tail numbers of the specific aircraft and/or crew that will conduct the operation. Airlines rely on ticketing/check-in/boarding systems to validate travelers individually, with check-in serving as quality control for ticketing, security serving as quality control for check-in, and boarding serving as quality control for security. However, standardized control systems do not exist to support these processes in the non-scheduled commercial operation environment.

Therefore, requiring non-scheduled aircraft operators to use the same APIS systems and processes as airlines is not reasonable. The proposed NPRM would impose a significant burden on non-scheduled operators, who can easily use the Single Syntax system. CBP should consider alternative approaches such as use of the Single Syntax system, that take into account the unique procedures



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and requirements of non-scheduled operations.

Third, in regard to ways to enhance the quality, utility, and clarity of the information to be collected, CBP can achieve the same result by expanding the use of the Single Syntax system, which as explained below, has been in use by our company for over 3 years.

Fourth, the burden can be minimized by using the Single Syntax system.

The "Single Syntax" APIS solution for general aviation will align all non-scheduled operators and create efficiencies for CBP. By utilizing the XML Schema for Private APIS, CBP is able to receive much more detailed and holistic information about the operation and its travelers than what UNEDIFACT is currently capable of providing. The development and implementation of "Single Syntax" APIS has been ongoing for several years, with stakeholders in the non-scheduled environment dedicating significant time, money, and resources to developing an enhanced APIS solution that fits both CBP and general aviation's needs.

NetJets has, upon request of CBP, been successfully participating in the CBP's pilot program utilizing "Single Syntax" since December 2019. This shows the benefits of this approach for non-scheduled aircraft operators and the positive results that can be accomplished through a collaborative approach, rather than a one-size fits all approach.

Significant resources have been invested in the development of this program, and it would be costly and disruptive to change to another system. Instead, this program should be expanded to all non-scheduled operators. We have been advised that key industry stakeholders, such as Universal Weather and Aviation, Inc. and other trusted third-party transmitters, are ready to implement "Single Syntax" immediately and improve the accuracy, efficiency, and security of the APIS process for non-scheduled operators.

Fifth, in regard to the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs), the total cost will be significantly more for non-scheduled operators. The agency has provided no valid data to support its claims that there will be a cost benefit or time savings for general aviation operators. The National Air Transportation Association (NATA) comments in this regard are absolutely correct, in this docket. In fact, the cost of implementing and executing the proposed APIS changes would be

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extremely challenging financially.

The proposed NPRM seeks to align the pre-flight and operational APIS processes for non-scheduled aircraft operations with those of scheduled airlines. This presents a significant challenge for non-scheduled operators, as the processes and systems utilized by scheduled airlines are not currently utilized or available to non-scheduled operators. Further, most non-scheduled operators do not have the same level of automation and resources as scheduled airlines and may not have the technical expertise to comply with the proposed APIS requirements.

The infrastructure and personnel needed to support the required changes would be a cost burden for non-scheduled air carriers who do not have the resources and technical expertise to comply with airline APIS requirements. Resources would have to be added or pulled away from other critical technology development which could have company-wide impact. Commercial airlines have substantially more resources and make up 99.6% of APIS transmissions, while the entire non-scheduled industry only serves 0.4% of traffic annually. The costs simply outweigh the benefits for non-scheduled stakeholders, particularly where the Single Syntax system is available and provides an equally effective option for meeting the agency's security goals. This has not been accounted for in the NPRM.

We have dedicated time, money and resources to our adoption, almost four years ago, of the Single Syntax process at CBP's request. Resources and personnel have been budgeted based on the use of that process. Accordingly, the proposed alignment with airline processes and systems is not appropriate for non-scheduled operators, and will result in increased costs and reduce efficiency. Allowing the continued use of the Single Syntax process is an effective, alternative method for compliance.

We appreciate the opportunity to provide comments on CBP's proposed rule.

Sincerely,



Rick Shaw

Director of International Planning
NetJets