



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIR

December 7, 2007

Mr. Gus Coldebella
General Counsel and Regulatory Policy Officer
Department of Homeland Security
Washington, DC 20528

Dear Mr. Coldebella:

On August 8, 2007, the Office of Information and Regulatory Affairs (OIRA) concluded review of a Department of Homeland Security (DHS) draft proposed rule, titled "Secure Flight Program." This rule would require both domestic and international airlines to request and submit passenger manifest information to DHS 72 hours prior to departure, to update passenger information as changes are made closer to the flight, and to print boarding passes that comply with TSA instructions for passengers cleared to enter "sterile" airport areas. Once Secure Flight is operational for domestic flights, DHS plans to expand the Secure Flight Program to include the screening of international passengers, which is currently handled by the Customs and Border Protection's Advanced Passenger Information System (APIS).

During our review, OIRA concluded that the analysis supporting the rule does not capture a complete and accurate picture of the impacts this rule may impose on airlines and the flying public. In addition, we are concerned about the differences between the Secure Flight proposed rule and the recently published APIS final rule.

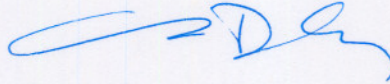
As you begin to consider public comment and draft the final Secure Flight rule, it is critical that DHS base decisions about Secure Flight on sound analysis. During the course of our review, we recommended a number of steps to improve the economic and regulatory flexibility analysis and identify regulatory alternatives. DHS should consider the following suggestions before finalizing the Secure Flight rule:

- **Analyze regulatory alternatives that are consistent with APIS.** The Secure Flight proposed rule would require that passenger manifest data be transmitted 72 hours prior to departure. This requirement is inconsistent with the APIS final rule for international aircraft, which allows passenger manifest data to be submitted up to 30 minutes prior to departure. Given the long-term plan to expand Secure Flight to handle international screening, OIRA believes that DHS should analyze a regulatory alternative that is similar to the APIS requirements.
- **Harmonize the break-even analysis with APIS.** Both the APIS final rule and the Secure Flight proposed rule are designed to increase public safety by preventing suspected terrorists from boarding aircraft. In assessing the potential

benefits of reducing the likelihood of such boardings, both rules present a "break-even" analysis that identifies particular scenarios each rule is designed to mitigate. However, the lowest cost scenario identified in the Secure Flight break-even analysis is higher than the highest cost scenario considered in the APIS analysis. As these two rules are attempting to mitigate the risk of very similar, if not identical attacks, we would expect TSA to choose scenarios for the Secure Flight break-even analysis that are similar to those in the APIS break-even analysis. Although the break-even analysis for these two rules need not be identical, in order for the rules to be comparable; in its analysis, TSA should use at least one lower cost scenario that overlaps with the APIS scenarios.

These suggestions are intended to improve the regulatory evaluation of the Secure Flight regulation and possibly identify other potential regulatory alternatives that could achieve similar security benefits at lower cost. I have directed my staff to work with you to further refine the regulatory analysis.

Sincerely,



Susan E. Dudley
Administrator
Office of Information
and Regulatory Affairs