



Background

In October 2008, the Transportation Security Administration (TSA) proposed the Large Aircraft Security Program (LASP) to govern operations for all aircraft weighing more than 12,500 pounds and require operators of those aircraft to implement an approved security program. The LASP proposal would, for the first time ever, require security programs for thousands of privately operated general aviation aircraft and ultimately seek to combine a number of security programs currently in place for general aviation, including the Twelve-Five Standard Security Program (TFSSP), into a single, uniform program.

The current TFSSP, required since 2004, applies only to operators of aircraft with a maximum certificated takeoff weight (MTOW) of more than 12,500 pounds in operations for compensation or hire. These flights are typically conducted under Federal Aviation Regulation (FAR) Part 135 and are frequently referred to as “charter” flights. The proposed LASP would expand requirements similar to those currently found in the TFSSP to all operators of aircraft with a MTOW of more than 12,500 pounds regardless of the type of operation, federal regulation operating rules, or mission.

The TSA’s current security programs for the types of aircraft affected by the proposed LASP, including the TFSSP, apply to approximately 650 aircraft operators. This proposed regulation would extend those requirements to over 10,000 aircraft operators flying over 15,000 aircraft.

The LASP would also impose new requirements on over 300 general aviation airports and additional requirements on aircraft with a MTOW greater than 100,309.3 pounds (replacing the existing Private Charter Standard Security Program [PCSSP]), and aircraft with a MTOW greater than 12,500 pounds in all-cargo operations.

Overview of LASP Requirements

Aircraft Operators

The proposed LASP would require all operators of aircraft with a MTOW of more than 12,500 pounds to:

- Ensure flight crew members undergo fingerprint-based criminal history record checks and security threat assessments;
- Conduct watch-list matching of passengers through TSA-approved watch-list matching service providers;
- Undergo a biennial audit of compliance; and
- Comply with the prohibited items list.

Airports

Airports designated as reliever airports by the Department of Transportation and 40 additional airports designated by the TSA would be required to implement a TSA-approved partial security program. In its most basic form, a partial security program includes:

- Designation and training of an Airport Security Coordinator (ASC);
- Description of law enforcement support to comply with CFR 1542.215(b);
- Training program for law enforcement, if required by CFR 1542.217(c)(2);
- Maintenance of records;
- Procedures for distribution, storage, and disposal of Security Directives, Security Sensitive Information, etc.;
- Procedures for posting public advisories; and
- Incident management procedures.

NATA Position

NATA is concerned that the TSA has proposed a vast expansion of regulation without providing the public with justification of the necessity for increased security on general aviation aircraft operators. The public should be permitted to review the agency's justification for this rule. The Administration Procedure Act/Regulatory Flexibility Act requires a federal agency to weigh the costs of a proposed regulation against the anticipated benefits. The public has been unable to validate the TSA's pronouncement that the benefits of this proposed rule in fact outweigh the costs because of the agency's unwillingness to share data. Furthermore, a Government Accountability Office (GAO) report released on March 29, 2009, revealed that the TSA has not followed federal internal control standards to assist it in implementing the Department of Homeland Security's (DHS) risk management framework for all modes of transportation. Specifically, the TSA is lacking an organizational structure that allows the agency to direct and control operations to achieve agency objectives. While specific TSA proposals such as the LASP weren't mentioned, the GAO report stated that the TSA should work with the DHS to validate its risk management approach, conduct comprehensive risk assessments, and establish related internal controls. The DHS concurred with all of the GAO recommendations.

On February 26, 2009, NATA submitted its formal comments to the TSA regarding the LASP. The comments focused on the impact that the LASP proposed rule will have on aircraft operators and airports as well as numerous issues the notice of proposed rulemaking (NPRM) raises that lie outside the scope of the proposed rule. Areas of concern addressed by NATA include:

Airport Operators

- Weight Threshold Justification
- Implementation
- Liability for Compliance
- Applicability
- CHRCs and STAs
- STA Expiration
- Watch List Service Providers
- Watch List Matching Costs
- Secure Flight
- Watch List Matching on International Flights
- Master Passenger List
- Third-Party Audits
- Privacy Notices
- Prohibited Items List

Airports

- Applicability
- Airport Security Coordinator
- ASC at Multiple Locations
- Training of Law Enforcement
- Program Development and Implementation

Issues Outside the Scope of This Rulemaking

- Positive Pilot Identification
- Aircraft Owners
- Airports

Overall, the NPRM demonstrated a troubling lack of knowledge and understanding of the general aviation community by the TSA.

The Future of LASP

The TSA received over 7,000 public comments on the LASP NPRM and, to the agency's credit, determined that more investigation was necessary. The TSA held a series of meetings with the industry to gain a better understanding of general aviation aircraft operations and the effect security rules would have on those operations. The TSA is now involved in finalizing a supplemental NPRM that will incorporate that knowledge into a new proposed rule. NATA currently expects the supplemental NPRM to be released in early 2011.