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National Air Transportation Association

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Docket Management System
U.S. Department of Transportation
1200 New Jersey Avenue, SE
West Building Ground Floor
Room W12-140
Washington, DC 20590-0001

RE: DOCKET NO. TSA-2008-0021, NOTICE OF PROPOSED RULEMAKING: LARGE AIRCRAFT SECURITY PROGRAM, OTHER AIRCRAFT OPERATOR SECURITY PROGRAM, AND AIRPORT OPERATOR SECURITY PROGRAM

The National Air Transportation Association (NATA), the voice of aviation business, is the public policy group representing the interests of aviation businesses before Congress, federal agencies and state governments. NATA's 2,000 member companies own, operate, and service aircraft. These companies provide for the needs of the traveling public by offering services and products to aircraft air carriers and others such as fuel sales, aircraft maintenance, parts sales, storage, rental, airline servicing, flight training, Part 135 on-demand air transportation, fractional aircraft program management and scheduled commuter operations in smaller aircraft. NATA members are a vital link in the aviation industry that provides services to the general public, airlines, general aviation, and the military.

NATA appreciates the opportunity to provide feedback with regard to the Transportation Security Administration's (TSA's) Notice of Proposed Rulemaking (NPRM) for large aircraft operators and airport operators. Although NATA understands the ongoing need to secure America's skies, several of the requirements in this NPRM are unfeasible and ineffective security measures.

The community of operators the TSA seeks to regulate – the general aviation (GA) community – is a varied and complex community. The aircraft utilized by this community, though possibly similar in appearance or weight, conduct a vast array of missions, ranging from private use by high net worth individuals – some even piloting their own aircraft – to for-hire operations of aircraft large enough to be used by major commercial airlines. As a result of the significantly varied needs of the GA community, several of the requirements proposed here are unfeasible or irrelevant. Several others do not provide sufficient benefit to justify the costs to the affected aircraft and airport operators, and some requirements might even exceed TSA's regulatory authority. NATA represents several factions of this industry, each with different operational procedures, needs, and abilities. As a result, these comments will be presented in three major sections: aircraft operators, airports, and issues outside of the scope of this rulemaking.

Scope

The NPRM, the Large Aircraft Security Program (LASP), published in October 2008 seeks to expand the existing Twelve-Five Standard Security Program (TFSSP) to operators of all aircraft of similar size. 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 proposed program would impose additional requirements on aircraft with a MTOW over 100,309.3 pounds (replacing the existing Private Charter Standard Security Program [PCSSP]), and aircraft with a MTOW over 12,500 pounds in all-cargo operations.

The proposed rule would also impose new requirements on over 300 general aviation airports. These airports would be required to adopt a TSA-approved partial security program.

Aircraft Operators

Overview of Requirements
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
- Comply with the prohibited items list

Justification
The TSA fails to provide reasonable justification for the weight limitation proposed – a maximum takeoff weight of 12,500 pounds. The preamble of the NPRM states that "as vulnerabilities and risks associated with air carriers and commercial operators have been reduced or mitigated, terrorists may view general aviation aircraft as more vulnerable and thus attractive targets. If hijacked and used as a missile, these aircraft would be capable of inflicting significant damage." Repeated requests from several trade associations, media outlets, and private individuals asking for the data to substantiate the agency's position have been ignored or denied. NATA does not disagree with the need to identify and address vulnerabilities to homeland security; however, NATA and the general aviation industry as a whole are unable to assess the TSA's position adequately without reasonable data. 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.

The TSA references "studies" that "have shown that significant loss of lives and other damage could results from [using an aircraft as a weapon]." To date, those studies have not been validated by the public. It is notable that other nations are considering similar security regulations, but with significantly different weight thresholds.

Implementation
The TSA proposes a six-phase implementation plan. The nation would be divided into five regions, each with four months to complete implementation on a rolling basis. The sixth and final phase would be for current TSA-approved security program holders to come into compliance with the new regulation. This implementation plan is fraught with trouble. First, the proposed roll out plan actually *creates* additional security vulnerabilities, because any individual wishing to do harm with a general aviation aircraft would know to target an aircraft in a region that has not yet been required to comply. Second, the proposed schedule creates unfair competition. Although commercial operators are already in compliance with the TFSSP, operators of private aircraft might choose to move their base of operations to a region with a later compliance date, resulting in a migration of aircraft to another region. Third, the proposed implementation plan would place an unbalanced burden on the TSA's own inspectors, local staff, and third party auditors in that particular region.

Also, each operator would be required to contract an audit through a third-party auditor within 60 days of accepting the TSA's security program. NATA believes this requirement should be waived for current TFSSP, PCSSP and DCA Access Standard Security Program

(DASSP) operators. These operators have been subject to TSA security programs and oversight for years, and should not be required to undergo an expensive and cumbersome audit to obtain a revised version of their current program. These operators should not be forced to wait for a specific phase of implementation, but rather should be permitted to "opt-in" as soon as their security programs have been revised to meet the new requirements.

Liability for Compliance
The NPRM continually refers to the aircraft "operator." In some situations, the aircraft "operator" is quite clear. For example, in a private operation where the owner of the aircraft is the sole user of the aircraft, and even personally pilots the aircraft, the term "operator" is very obvious. In for-hire or compensation cases, either "charter," as discussed above, cargo flights, or other operations that would be considered commercial operations, the term "operator" is the FAA-certificated entity with the privileges required to conduct commercial operations.

However, not all situations continuously fit in these easy boxes. FAA-certificated entities, typically Part 135 charter companies, often do not own the aircraft they use for commercial operations. Instead, the aircraft is owned by an individual or another company and made available to the Part 135 charter company for the purposes of creating revenue. During flights being conducted for hire or compensation, the term "operator" remains clear, regardless of the fact that the Part 135 charter company does not actually own the aircraft. However, for the purposes of these security programs, which entity is the "operator" during training, repositioning, or other non-revenue flights during which the owner of the aircraft is not on the aircraft? Is the Part 135 charter company responsible for ensuring the proposed security program has been abided by, or is the aircraft owner? NATA believes this scenario is addressed by current FAA guidance on operational control, which, in short, states if the flight is being conducted "at the behest" of the aircraft owner, then the aircraft owner holds operational control and is responsible for the safety (and in this case, security) of the flight. By extension, this means the Part 135 charter company would frequently retain liability for compliance with the proposed security program. However, would the aircraft owner then be required to hold a *separate* security program, undergoing *separate* audits, requiring crewmembers to complete *separate but identical* security training, and so on, in order to be compliant with both the aircraft owner's and the Part 135 charter company's security programs? NATA believes this is an unreasonable and inefficient concept, but the TSA does not adequately address these issues in the NPRM.

The TSA addresses the issue of liability for compliance with regards to Part 91(K) fractional program managers, where the agency proposes to follow FAA-like concepts in which the aircraft owner can delegate some responsibility to the program manager. If the fractional

provider utilizes multiple aircraft, the provider can use one security program to cover all of the aircraft on the program's Part 91(K) Management Specifications. The TSA also asks if the agency should include additional features from 91(K), such as a briefing of the fractional owner that the fractional program manager maintains liability for the security program. However, the TSA did not extend this concept to Part 91 management companies or other arrangements.

NATA believes these concepts should be extended to all managed aircraft situations, should the owner of the aircraft choose this course. There are many cases where a single charter operator manages aircraft for dozens of owners. Having all these aircraft operating under a single security program, where all owners have a shared security responsibility with the charter management company is an ideal situation where the benefit from a security, administrative, compliance and cost perspective are clear. NATA suggests the TSA allow the aircraft owner to delegate responsibility of the security program to the management company or certificate holder, much as the agency has proposed for Part 91 (K) fractional program managers and aircraft owners.

In such an arrangement, it would be highly efficient for the management company to coordinate with the TSA directly to obtain the security program. Then the management company and aircraft owners could enter into agreements whereby the owner agrees to use and comply with the management company's security program and the management company is then delegated to complete security program functions.

Applicability
Equally concerning is the TSA's continued reference to the "operator" with no reference to the aircraft's state of registration. Is this proposed rule tied to the operator of the aircraft, or the country in which an aircraft is registered? Are foreign-registered aircraft required to comply with this proposed rule? CFR 1546 explicitly excludes foreign commercial operators from this proposed rule, as it applies to "each foreign air carrier holding a permit issued by the Department of Transportation." However, proposed CFR 1544.1 applies to "operations of aircraft operators engaged in any civil operators in an aircraft with a maximum certificated takeoff weight . . . ." This applicability language does not adequately identify the operations that would be required to comply with this proposed rule. NATA recommends that CFR 1544.1 read, "operators of U.S.-registered aircraft with a maximum certificated takeoff weight of over 12,500 pounds." The association believes this is the agency's original intent, and ***strongly*** discourages the TSA from applying this proposed rule to foreign-registered aircraft operating in the national airspace system.

Criminal History Records Checks and Security Threat Assessments
The TSA proposes that Criminal History Records Checks (CHRCs) and Security Threat Assessments (STAs) be transferable from one employer to another. This would be a positive change for current TFSSP operators and the pilots who fly for these operators. Currently, a pilot who changes employment from one TFSSP operator to another must undergo a new CHRC. NATA believes transferability is a reasonable concept, as pilots frequently change employment while continuing to operate similar aircraft. Also, many pilots act as temporary, contracted pilots for many different operators. This transferability would eliminate duplicative vetting by the TSA and save operator and government resources. Additionally, because pilots are vetted on a continuous basis, there is no increased risk associated with allowing the pilot to transfer his/her successful CHRC and STA. Not only should this transferability be applied to pilot CHRCs and STAs, but it should also apply to other covered employees, assuming the firm they are moving to conducts the same business with the TSA and the employee will be performing similar functions to those performed when the employee obtained the successful CHRC and STA.

STA Expiration
The TSA proposes an expiration date of five years for STAs, after which point crewmembers and other covered employees would need to be vetted again, to include another CHRC. This proposal is completely contrary to all common sense security measures. Does the agency mean to say that it does not continuously conduct some sort of STA for pilots? If this assessment is so critical, why would the TSA only conduct it once every five years, and otherwise just hope the crewmember or covered employee does not become a threat in the meantime? It is highly likely the agency does in fact perform some continuous monitoring of crewmembers. At a minimum, there is absolutely no need to conduct another CHRC. If any covered employee had been arrested, tried and convicted of a disqualifying offence during his or her employment it would obviously be known to the employer. Therefore, the STA should not expire, but should be an on-going assessment performed by the agency. The TSA should advise the crewmember or employer of any change in status.

Disqualifying Offenses
The TSA proposes to continue using the list of disqualifying offenses that currently applies to regulated aircraft operators. It is quite possible that some pilots or other covered employees at currently unregulated operators could have criminal records that disqualify the individual from continuing employment after the requirements for a CHRC become effective. However, the TSA makes no attempt at identifying the number of individuals that could be affected, nor does the agency include lost wages in the economic evaluation of this NPRM.

Watch List Service Provider
The TSA proposes requiring watch list matching through newly-regulated Watch List Service Providers (WLSP). The agency incorrectly assumes that most operators already use flight planning services for most flights, and that this requirement would not significantly increase the costs associated with each flight. That is simply not the case. Most operators affected by this rule use flight planning services only for foreign flights – if at all – and do not use these services routinely for domestic flights. Given the significant startup and certification requirements for the new WLSPs, it is highly unlikely these providers will simply give away watch list matching. Also, current TFSSP operators have access to the watch lists and have been conducting their own matching for over five years without any indication of a problem. This proposal would prohibit current TFSSP operators from performing their own watch list matching functions and force the operator to pay a third party for a service the operator already performs as a normal matter of course. The TSA again erroneously assumes that these aircraft operators use flight following or planning services, and these services will become WLSPs. In fact, very few TFSSP operators use flight planning services for domestic flights. NATA recommends that current TFSSP and PCSSP operators maintain access to the watch lists and be permitted to continue to perform their own matching. The agency must re-evaluate its assumptions in the economic analysis of this portion of the proposal to reflect the fact that flight planning services are not regularly used and to determine what fees WLSPs would realistically charge for this service.

Watch List Matching Costs
NATA is concerned with the cost estimates the TSA provides for watch list matching services. As discussed above, it is not common for the operators affected by this rulemaking to use flight planning providers for domestic flights. Therefore, the agency's assumption that WLSPs will "package" watch list matching services is not valid. The federal government charges DASSP operators $15 per name for watch list matching services on flights into and departing DCA. Considering that the TSA is only permitted to recover its costs associated with the watch list matching, and the WLSP will need to invest at least $330,000 in the first year of service, according to the TSA's economic evaluation, it should be assumed that WLSPs will charge more than the $15 per name that the TSA currently charges. The TSA has assumed each operator will spend $491 a year on watch list matching. At $15 per name, that means each operator will only perform 32 name checks per year. This is not a realistic number, even with the Master Passenger List provision. Between the number of name checks one can obtain from the TSA for $15 a piece, and the high likelihood that WLSPs will apply a margin to the fees in order to make a profit, the TSA's cost estimate of $491 per operator per year is remarkably inaccurate.

Secure Flight
The TSA readily admits that the Secure Flight Program will soon be implemented for airlines to complete their watch list matching. NATA wonders why Secure Flight is not considered by the agency to be a viable alternative to WLSPs. NATA believes that the agency should postpone the LASP (or at a minimum postpone any watch list matching requirement), roll out Secure Flight to the airlines, and then use the Secure Flight Program for watch listing matching for LASP operators.

The TSA is clearly well aware of its existing congressional mandate to assume all watch list matching functions. It is incredible that the TSA is pushing forward a new unfunded mandate that is wholly incompatible with an existing mandate to the contrary. NATA believe that no new watch list matching requirements should be imposed unless and until the TSA is prepared to perform its federal obligation to conduct those checks.

Watch List Matching on International Flights
The TSA proposes operators would not need to submit names for watch list matching if the names had already been submitted to Customs and Border Protection to meet Electronic Advanced Passenger Information System (eAPIS) requirements for international flights. This proposal would remove a redundant process that current TFSSP operators must perform on a regular basis. NATA encourages the TSA to include this proposal in the final rule.

Master Passenger List
The TSA proposes all LASP operators be permitted to submit a Master Passenger List (MPL) of repeat passenger names. The operator would not be required to submit a name listed on the MPL prior to each flight. Rather, the TSA would continuously vet all names on the MPL and alert the operator if a passenger's status on a watch list changes. NATA commends the TSA on this proposal, as it recognizes the unique nature of general aviation flights and demographics. However, it is uncertain how the agency would advise the operator of a passenger's change in status. NATA asks that this process be addressed in the disposition of comments for the final rule.

Third Party Audit
The TSA proposes requiring *all* operators to contract with a third-party auditing organizing for a biennial audit, including currently-regulated entities. However, current TFSSP operators are already subjected to oversight through random inspections by the TSA. Additionally, no other TSA-regulated party is required to contract for a third-party audit to achieve the agency's responsibilities for oversight. Compliance and enforcement are inherently governmental actions that should not be completely delegated away as is proposed. NATA recommends that oversight functions continue to be conducted through

random TSA inspection, and not through a burdensome – and expensive – third-party auditing process.

In support of its argument for this delegation, the TSA alludes to the current FAA designee program. However, the agency fails to recognize the key distinguishing feature between the FAA program and the proposed audit scheme – in the case of the FAA designee program, use of a paid designee is never a requirement, it is a convenience. The person seeking FAA approval always has the option of scheduling a review or inspection with the appropriate FAA employee or office at no charge. Further, a designee is never used to complete the primary certification review of an operator. The TSA program provides no opportunity to have a TSA-provided free inspection and amazingly is relying on a for-profit industry to certify primary and on-going compliance with a new regulatory system.

With regard to the newly regulated entities, the agency believes this requirement "should be easily integrated into most GA operator's existing audit schedules," which incorrectly assumes all GA operators already undergo third-party audits. Although some charter operators do complete regular audits, these audits are not a requirement, and private Part 91 aircraft operators typically do not subscribe to a regular audit regime. The agency specifically asks if auditors should be assigned randomly to avoid conflict and ensure consistency. NATA does not believe auditors should be "assigned" by the agency. Since the TSA is not going to set prices for audits, or even make recommendations for pricing, forcing an operator to use a specific auditor could result in the operator paying more than appropriate for the evaluation. Instead, should the TSA continue to pursue this third-party audit scheme, NATA recommends that operators only be prohibited from using the same auditor for consecutive audits. Operators should be permitted to use an auditor from the same *company* as a previous audit, but not the same *individual*. This is crucial, as the supply of auditors might not allow for further limitations.

Also, NATA is concerned with the auditor qualifications outlined by the TSA. Specifically, the agency proposes that each auditor have at least five years of auditing experience. If the agency continues with this proposal, considering the accreditation options the TSA mentions (the International Standard for Business Operators, for example), there will simply not be enough qualified auditors to complete the evaluations. This could result in operators being unintentionally non-compliant with the rule for lack of qualified auditors. NATA suggests the TSA lower the auditing experience. Many highly reputable audit standards allow relevant education to substitute for experience. Additionally, the TSA should allow other types of accreditation, including accreditation and/or approval earned for the Air Charter Safety Foundation's Industry Audit Standard and the International Air Transport Association's International Operational Safety Audit.

Weight Consistency
The TSA proposes to change all current regulatory language from "12,500 pounds or more" to "over 12,500 pounds." The original intent of the TFSSP rule was to apply to aircraft over 12,500 pounds, but the regulation was written as "12,500 pounds or more." NATA encourages the agency to proceed with this proposal and apply "over 12,500 pounds" consistently.

Privacy Notice
The TSA requests feedback on whether operators should be required to provide passengers with a privacy notice prior to submitting their names and other information for the purposes of watch list matching. The TSA suggests the operator could accomplish this requirement through the operator's Web site or other means. However, airlines are not required to provide their passengers with a privacy statement, and it seems unnecessary in this context as well. NATA recommends that the TSA exclude this requirement in the final rule.

Prohibited Items List
The TSA proposes that all LASP operators be subject to compliance with the Prohibited Items List (PIL). However, the PIL has long been a difficult, if not impossible, requirement for most TFSSP operators. General aviation aircraft are simply not outfitted with inaccessible baggage areas. NATA recommends the TSA draft a modified PIL for all LASP operators. A recommended list follows these comments as Appendix A. NATA believes the modified PIL for LASP operators maintains the level of security needed by the agency while maintaining the utility of general aviation aircraft.

Airports

NATA also represents some of the airports that the TSA identifies will be required to comply with a partial security program. These airports include the reliever airports as identified by the Department of Transportation and over forty airports identified by the TSA. NATA has the following concerns with regards to airports:

Applicability
The TSA claims these airports were chosen with risk-based rationale. However, there seems to be no clear criteria for an airport to be included on the list. Even the reliever airports vary significantly in geographic location, proximity to major metropolitan areas, and usage characteristics. The TSA even asks for public comment on how to define "regular use" of airport by large aircraft. If the TSA is asking for public comment on how to define the very characteristics that would force an airport to comply with the proposed rule, how can the agency then go on to list the airports? The list the TSA produces, aside from the reliever

airports, appears to be arbitrary and capricious. For example, one of the airports listed handled only 431 passengers in 2005. Another handled almost 400,000 passengers. How, exactly, is the security risk similar at these two vastly different airports? Additionally, some of the "airports" listed are not even airports, in the traditional sense. One is a seaport, with no land-based runways. Many of the airports – including the TSA-identified and reliever-listed airports – are so remote that they do not even have Internet access at the airport. Surely these remotely based airports with only a few hundred passengers a year do not pose the same security risk as an airport with hundreds of thousands of annual enplanements in close proximity to a major metropolitan area. The TSA must be more specific in identifying the characteristics that require an airport to comply with the proposed rule before it definitively lists those airports.

Also, how does the agency propose to add or remove airports from the LASP list if the conditions at the airport change? Does the TSA intend to pursue rulemaking each time an airport's usage changes?

Prior to the imposition of regulation in this matter, the TSA must first publish its criteria for inclusion in the regulatory requirement and accept public comment on those qualifiers. Then and only then may a true opportunity to review and evaluate the proposal, as required by law, occur.

Overview of Partial Program
The TSA proposes that each affected airport develop a 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.

Airport Security Coordinator
The TSA proposes that each affected airport identify and train an ASC. NATA is not opposed to requiring that the airports name an ASC and alternate ASC. However, the TSA asks for public comment on whether the partial program ASCs should be required to attend full program ASC training. The association believes a separate, shorter training course – perhaps

even a web-based course – should be developed for partial program ASCs. Not only is a full program course unnecessary and expensive for these individuals to attend, but allowing a partial program ASC to attend training with a full program ASC could actually violate SSI protections, as the full program certainly contains details a partial program ASC does not have legitimate need to know. Additionally, NATA recommends that individuals who have been trained as full program ASCs be "grandfathered" from this requirement, as the full program training exceeds partial program needs and so should meet partial program training requirements.

ASC of Two Locations
NATA also recommends that airports in close proximity that share one sponsor (frequently a city, state, or other municipality, but sometimes a private airport management firm) be permitted to identify just one ASC and alternate for the multiple airport locations. For example, Cleveland Hopkins Airport already has an ASC and alternate named to comply with its full security program requirements. Burke Lakefront Airport is a designated reliever airport, and therefore one of the airports subject to this proposal. NATA recommends these airports and others like them – just a few miles from one another – be permitted to "share" an ASC and alternate.

Training of Law Enforcement
NATA seeks clarification of the requirement to provide law enforcement training. Although the current regulation seems to exclude the affected airports from this requirement and the proposal does not change the relevant regulation, Table 5 of the NPRM includes a training program for law enforcement personnel. As the association reads the current regulation text, it seems these airports would not be required to comply with 1542.217(c)(2), as these airports do not frequently utilize private law enforcement personnel. Therefore, the proposed rule only requires these airports to comply with CFR 1542.215(b), which requires airports to have law enforcement available to respond and procedures by which to request law enforcement support. The airports will be able to rely on local resources, as currently is the standard method of complying with 1542.215(b), and not hire additional law enforcement resources. If the TSA intended the airports to hire law enforcement personnel, these figures are not included in the economic analysis and this requirement should not be included in any final rule until further economic analysis and an appropriate public comment period is completed.

Security Directives
NATA is extremely concerned with the TSA's recent use of Security Directives (SDs) to implement wide-reaching and significant policy changes. The association believes airports with partial security programs should be subjected to a distinctly different type of SD than

those issued to full program holders. These SDs should be the result of a clear and relevant threat to airports with partial programs, and should not try to account for the needs of full program holders in the same SD. There is already precedent for different SDs issued to different types of operators. For example, a DASSP operator is not required to comply with the same SDs as an Aircraft Operator Standard Security Program (AOSSP) holder (i.e. airline).

Program Development and Implementation
The TSA contradicts itself in the preamble of the NPRM. In several instances, the agency says that a standard program will be disseminated to applicable airports and the airport will accept the program as written or request changes. In other instances, the agency states the airports will be required to develop and submit a program to the TSA for approval. NATA recommends that airports with existing, voluntary programs be permitted to revise their programs to comply with the proposed regulation, and submit the revised program to the TSA. The association also suggests the TSA provide airports that do not have a voluntary program or whose program would need major revisions a template standard program to submit to the TSA for acceptance. Further, the TSA does not specify the type or quantity of resources that will be dedicated to reviewing and accepting an airport's partial program. NATA has significant concerns that airports will be prevented from complying by the effective date of the rule due to insufficient federal resources to approve programs.

Issues Outside the Scope of This Rulemaking

NATA is very concerned with the sheer number of questions the TSA asks of the public in this NPRM. The TSA pointedly requested for comment on over 40 specific issues. Overall, this proves a general lack of understanding of the very industry this proposed rule seeks to regulate. The association is particularly disturbed by the TSA's attempt to seek public comment on the following issues. These items are not included in the formal rulemaking sections, and no proposed regulatory language is presented. Further, these issues are not included in the economic analysis or regulatory evaluation. Therefore, the association offers the following general comments on these items, but, as they are outside the scope of this rulemaking, would expect to see further rulemaking efforts by the TSA before any of these items were to be required of aircraft operators, aircraft owners, or airports.

Pilot Identification
The TSA asks for "methods of positively identifying pilots and effectively linking them to the aircraft they are operating." NATA is aware of a separate initiative the agency is pursuing, referred to as "Positive Pilot Identification," and believes this is the initiative the TSA is requesting comment on. The association has been an active participant in the

discussions of Positive Pilot Identification with the agency and will continue to participate. However, this NPRM is not a satisfactory venue for this discussion.

Aircraft Owners
The TSA requested comment on whether aircraft owners themselves should be subject to CHRCs and STAs. NATA does not necessarily disagree with the concept of a threat assessment of some sort for aircraft owners. However, this requirement was not proposed in the NPRM.

Airports
The TSA requested comment on several issues relevant to airports, but not relevant to this rulemaking. First, the agency asks if airports should be required to complete a vulnerability self-assessment. NATA believes any self-assessment should be voluntary. Second, the TSA asks if additional general aviation airports should be subject to the requirements of this NPRM. NATA believes additional rulemaking would be required to extend the applicability of this rule. Federal rulemaking procedures require that an agency identify the entities that will be regulated by a proposed rule, and that those entities have the opportunity to provide comment. If the TSA were to extend the applicability of this rule to airports that have not yet been identified, the agency would need to re-open the comment period after naming those airports.

NATA re-emphasizes that the issues addressed in this section are not tied to any specific proposal in this NPRM and are therefore outside the scope of this rulemaking. NATA would expect the TSA to publish a separate or a Supplemental NPRM (SNPRM) prior to the imposition of this requirement or any others.

Conclusion

Overall, this NPRM demonstrates a troubling lack of knowledge and understanding of the general aviation community by the TSA. The proposed rule is a very discouraging outcome after years of work at the agency, during which the industry offered assistance to provide an effective, feasible means to address the TSA's concerns. These offers of assistance were repeatedly declined by the TSA, and the resulting proposal reflects the agency's refusal to work with the industry.

However, NATA and other industry members once again ask the TSA to accept their offer of assistance. The only acceptable action for the agency to take is to withdraw the NPRM and assemble an official rulemaking committee, following the FAA's Aviation Rulemaking

Committee (ARC) model or similar. Alternatively, the TSA should consider industry feedback on this NPRM, draft and issue a SNPRM, and accept public comment one more time. Quite simply, the number of questions and inconsistencies in the NPRM demonstrates that this rulemaking is simply not ready for publication as a final rule.

NATA appreciates the opportunity to provide these comments.

Sincerely,

Eric R. Byer
Vice President, Government and Industry Affairs

Attachement

Proposed Large Aircraft Security Program Prohibited Items List

Highlighted items reflect a change from the current PIL.

Sharp Objects

Item	Can This Item Be In Accessible Areas?	Can This Item Be In Inaccessible Areas?
Box Cutters	Yes	Yes
Ice Axes/Ice Picks	No	Yes
Knives (knives more than 7” in length must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes
Meat Cleavers	No	Yes
Razor-Type Blades - such as box cutters, utility knives, razor blades not in a cartridge, but excluding safety razors.	Yes	Yes
Sabers	No	Yes
Scissors - metal with pointed tips and blades shorter than four inches	Yes	Yes
Swords	No	Yes

Sporting Goods

Item	Accessible	Inaccessible
Baseball Bats	Yes	Yes
Bows and Arrows	Yes	Yes
Cricket Bats	Yes	Yes
Golf Clubs	Yes	Yes
Hockey Sticks	Yes	Yes
Lacrosse Sticks	Yes	Yes
Pool Cues	Yes	Yes
Ski Poles	Yes	Yes
Spear Guns	Yes	Yes

Guns & Firearms

Item	Accessible	Inaccessible
Ammunition	Yes	Yes
BB guns (must be stored in inaccessible compartments or stored in a locked box or with trigger lock with the ISC maintaining control of the key)	Yes	Yes
Compressed Air Guns (must be stored in inaccessible compartments or stored in a locked box or with trigger lock without compressed air cylinder attached with the ISC maintaining control of the key)	Yes	Yes
Firearms (must be stored in inaccessible compartments or stored in a locked box or with trigger lock with the ISC maintaining control of the key)	Yes	Yes
Flare Guns - (must be stored in inaccessible compartments or stored in a locked box or with trigger lock with the ISC maintaining control of the key)	Yes	Yes
Flares (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	No
Gun Lighters	No	Yes
Gun Powder including black powder and percussion caps	No	No
Parts of Guns and Firearms	Yes	Yes
Pellet Guns	No	Yes
Realistic Replicas of Firearms	Yes	Yes
Starter Pistols	No	Yes

Tools

Item	Accessible	Inaccessible
Axes and Hatchets	No	Yes
Cattle Prods	Yes	Yes
Crowbars	Yes	Yes
Hammers	Yes	Yes
Drills and drill bits (including cordless portable power drills)	Yes	Yes
Saws (including cordless portable power saws)	Yes	Yes
~~Tools (greater than seven inches in length)~~	~~No~~	~~Yes~~
Tools ~~(seven inches or less in length)~~	Yes	Yes
Screwdrivers ~~(seven inches or less in length)~~	Yes	Yes
Wrenches and Pliers ~~(seven inches or less in length)~~	Yes	Yes

Martial Arts & Self Defense Items

Item	Accessible	Inaccessible
Billy Clubs (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes
Black Jacks (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes
Brass Knuckles (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes
Kubatons (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes
Mace/Pepper Spray - One 118 ml or 4 Fl. oz. container of mace or pepper spray is permitted in inaccessible baggage provided it is equipped with a safety mechanism to prevent accidental discharge	Yes	Yes
Martial Arts Weapons (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes
Night Sticks (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes
Nunchakus (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes
Stun Guns/Shocking Devices (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes
Throwing Stars (must be stored in inaccessible compartments or stored in a locked box with the ISC maintaining control of the key)	Yes	Yes

Explosive & Flammable Materials, Disabling Chemicals & Other Dangerous Items

Explosive Materials	Accessible	Inaccessible
Blasting Caps	No	No
Dynamite	No	No
Fireworks	No	No
Flares (in any form)	No	No
Hand Grenades	No	No
Plastic Explosives	No	No
Realistic Replicas of Explosives	No	No
Flammable Items	**Accessible**	**Inaccessible**
Aerosol ~~(any except for personal care or toiletries in limited quantities)~~	Yes	Yes
Fuels (including cooking fuels and any flammable liquid fuel)	Yes	Yes

Gasoline	No	No
Gas Torches	No	No
Lighter Fluid	No	No
Common Lighters ~~- Lighters without fuel are permitted in inaccessible baggage. Lighters with fuel are prohibited in inaccessible baggage, unless they adhere to the Department of Transportation (DOT) exemption, which allows up to two fueled lighters if properly enclosed in a DOT approved case. If you are uncertain as to whether your lighter is prohibited, please leave it at home.~~	Yes	No
Torch Lighters - Torch lighters create a thin, needle-like flame that is hotter (reaching 2,500 degrees Fahrenheit) and more intense than those from common lighters. Torch lighters are often used for pipes and cigars, and maintain a consistent stream of air-propelled fire regardless of the angle at which it is held. Torch lighters continue to be banned.	No	No
Strike-anywhere Matches - **One** book of safety (non-strike anywhere) matches is permitted as Accessible items, but all matches are prohibited in inaccessible baggage.	No	No
Flammable Paints (See Other Items below for non-flammable paints)	No	No
Turpentine and Paint Thinner	No	No
Realistic Replicas of Incendiaries	No	No
Disabling Chemicals & Other Dangerous Items	**Accessible**	**Inaccessible**
Chlorine for Pools and Spas	No	No
Small compressed gas cartridges (Up to 2 in life vests and 2 spares)	Yes	Yes
Fire extinguishers and other compressed gas cylinders	No	No
Liquid Bleach	No	No
Spillable Batteries - except those in wheelchairs	No	No
Spray Paint	No	No
Tear Gas	No	No

Other Items

Item	Accessible	Inaccessible
Gel-type candles	No	Yes
Gel shoe inserts~~ – Gel shoe inserts are not permitted, but shoes constructed with gel heels are allowed and must be removed and screened. Read more on our shoe screening policy~~.	Yes	Yes
Non-flammable liquid, gel, or aerosol paint	Yes ~~– 3 oz. or smaller container~~	Yes
Flammable liquid, gel, or aerosol paint	No	No
Snow globes and like decorations regardless of size or amount of liquid inside, even with documentation.	Yes	Yes