

CHICAGO EXECUTIVE AIRPORT

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Docket Management Facility
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

Chicago Executive Airport is a reliever airport as defined by the National Plan of Integrated Airport Systems and is located in Wheeling, Illinois. The airport is a general aviation airport and has no scheduled Part 121 or 135 operations. Its tenants include four Part 135 air charter operators, two fixed base operators, four flight schools, and numerous private and corporate operators.

Chicago Executive Airport's management and tenants are not opposed to reasonable security measures for general aviation aircraft operators and airport operators. In fact, Chicago Executive voluntarily adopted and maintains a robust security program and action plan, applicable to airport staff and tenants of the airport. The general aviation community as a whole feels significant responsibility for the security of the industry and this nation, and is second to no other industry in the application of voluntary security measures. However, I have significant concerns regarding the TSA's proposed program as it would apply to both the Chicago Executive and its tenants and users.

Airport Concerns

Airport Security Coordinator

Chicago Executive Airport, as a reliever airport, is one which would be expected to comply with the proposed rule. My initial concerns are in regards to Airport Security Coordinators (ASCs). My first involves ASC training requirements. The TSA requested specific feedback on training mandates for ASCs of airports with partial security programs, such as the one prescribed by the NPRM. Training for partial program ASCs should be consistent with the requirements of the program – in other words, requiring a partial program ASC to attend full program ASC training would be heavy-handed, both in terms of costs to the airport and time resources of the ASC. Many individuals who will serve as ASCs perform multiple functions at the airport, including management, safety, and operational roles. Requiring training away from the airport would be an unnecessary burden to regulated airports, many of which operate with few – or no – full-time staff members. Therefore, the TSA should develop an online training course for partial program ASCs. Additionally, individuals who have been trained as full program ASCs should be “grandfathered” from the partial program training requirements, and their current training qualifications should “count” towards partial program training requirements.

*An Intergovernmental
Cooperative of the City of
Prospect Heights and the
Village of Wheeling*

Memberships:
Wheeling,
Prospect Heights
Chamber of Commerce

National Business
Aviation Association

Illinois Public
Airports Association

Government Finance
Officers Association

Illinois Government
Finance Officers
Association

Illinois Aviation
Trades Association

Chicago Area Business
Aviation Association

National Air
Transportation
Association

Aircraft Owners and
Pilots Association

Next, two airports frequently share one sponsor – typically a city, state, or other municipality that provides management and oversight to both airports. In these cases, one ASC should be adequate to provide security oversight to both facilities, and the ASC should require only one form of ASC training, obviously full program ASC training if either airport is a full program holder.

Distribution/Implementation of Program

The preamble of the NPRM reveals several inconsistencies as to how the TSA will distribute security programs to airports. At some points, the TSA says it will draft and distribute a standard program for airports to adopt. At other points, the TSA states airport operators will need to draft their own security programs and submit them to the TSA for approval. I recommend a hybrid of these two, because some proposed regulated airports have drafted their own voluntary security programs. I believe airports with existing, robust security programs should be permitted to demonstrate compliance with the new rule and submit their program to the TSA for approval. Airports with no existing program, or those looking for a complete revision, should have a standard program made available to them by the TSA.

Security Directives

My most significant concern for proposed regulated airports is in regards to Security Directives (SDs). Although I do not currently hold appropriate credentials to read SDs, I read enough trade publications to be worried about the implications these directives could have on general aviation airports. Some SDs, such as those related to airport badging, simply do not fit in the general aviation paradigm. Many of our tenants have policies requiring company badges for access to aircraft or the ramp and requiring guests be escorted as a matter of good business practice. Requiring a separate badge for each covered general aviation airport is an unnecessary burden for airport tenants, airports, and the federal government. I suggest a distinct category of SDs be developed for partial airport programs, and these directives issued sparingly and only in response to a specific, credible threat.

Vulnerability Assessment

The TSA requests feedback on whether airports – presumably those covered by this proposed rulemaking and others – should be required to complete a vulnerability assessment. Although I am not opposed to asking airports to complete a vulnerability assessment, I believe this should be a voluntary measure and not a mandate. If the agency were to decide to mandate vulnerability assessments, the requirement should apply to airports with full or partial programs, and not to every airport. Additionally, this measure was not included the proposed rule – only discussed in the preamble – and should be pursued in a separate rulemaking.

Aircraft Operator/Tenant Concerns

Weight Threshold

The TSA has repeatedly stated that “one size fits all” security is not relevant to the general aviation industry, yet in this NPRM, the agency proposes to subject all aircraft over 12,500 pounds to the same standards – and those standards were based on

commercial aviation security measures! This includes the use of the prohibited items list, which could ban a private individual, flying his or her own aircraft, from carrying other athletic equipment on a holiday, or businessperson from carrying parts for an assembly line to conduct commerce.

Also, despite the name of the proposed program, an aircraft with a maximum takeoff weight over 12,500 pounds is not necessarily "large". The TSA should consider higher weight thresholds or share with the industry the studies the agency believes validate the 12,500 pound qualification. Otherwise, the U.S. will be one of the first countries to establish a weight-based security program for private aircraft operations. Other foreign aviation entities, including the European Union and International Civil Aviation Organization (ICAO), are still evaluating appropriate, risk-based security measures to establish standards for private operations. If the TSA is successful in establishing the 12,500 qualification, it could result in the U.S. having to file for a difference, or exception, to future ICAO standards. Would it not be more beneficial to U.S. aircraft operators and the federal government to postpone this program, which based on an arbitrary weight, until international standards are established?

Applicability to Foreign-Registered Aircraft

Also, Chicago Executive is a port of entry, and serves many foreign-registered aircraft. Although the TSA has indicated on multiple occasions that this NPRM will apply to U.S.-registered aircraft only, the proposed applicability language is not clear. Part 1546 applies to foreign air carriers as identified by the Department of Transportation, but does not speak to aircraft registration or private or corporate operators. And the language in the preamble of this NPRM refers consistently to an "operator", but not to the registration of the aircraft. I suggest the applicability language for this proposed rule be more specific, and definitively identify operators of U.S.-registered aircraft as the intended regulated parties.

The current proposed language is not clear, especially when held against existing regulations, and will cause confusion among operators of foreign registered aircraft. The TSA needs to consider how to address the following situations:

- A non-U.S. citizen or foreign company flies an N-registered aircraft. Is that individual or company required to hold an LASP?
- A U.S. citizen or U.S. company flies a foreign-registered aircraft, which is based in a foreign location. Is that individual or company required to hold an LASP?
- A U.S. citizen or U.S. company flies a foreign-registered aircraft, which is based in the U.S. Is that individual or company required to hold an LASP?
- A U.S. citizen living aboard, or U.S.-based company in a foreign location, flies a N-registered aircraft. Is that individual or company required to hold an LASP?

It seems the NPRM does not accurately reflect the intentions of the TSA. The TSA should be more specific in the applicability language of this rule, and explicitly state the agency's intentions for applicability.

Improper Delegation of Oversight

Finally, the TSA has proposed two critical aspects of the program, passenger vetting and operator oversight, be delegated to third party vendors. Passenger vetting would be conducted through "watch list service providers" at an undisclosed and unaccounted for cost to aircraft operators. However, in the TSA's new Secure Flight Program, the government claims responsibility for watch list matching at no charge to airlines. In the proposed Large Aircraft Security Program, operator oversight would be conducted through third party auditors, at an incredibly under-estimated cost to the operator. Currently, oversight of mandated security programs is performed through TSA inspection. Aren't these two functions best performed directly by the federal government?

Conclusion

The TSA asked the public over 40 specific questions in this initial NPRM. It seems the agency – and the general aviation industry as a whole – would benefit from a more participatory rulemaking process. This would allow the industry to work with the TSA to take advantage of existing best practices, better detail costs of compliance, and draft a more sensible solution. The general aviation community has participated in such rulemaking procedures with other federal agencies, to the advantage of both the industry and the federal government. As an alternative, the TSA should review public comments to this NPRM, issue a Supplemental NPRM with revisions as suggested by the public comments, and accept public comment one more time before issuing a final rule. Any NPRM which asks 40 questions of the public is not ready for a final rule after one round of public comment. The general aviation industry is anxious to assist the TSA in development of a final rule that is feasible for the industry, while providing the level of security needed by the TSA.

Thank you for the opportunity to comment to this proposed rule. Chicago Executive Airport, our tenants and users, and the general aviation community as a whole look forward to working with the TSA to identify reasonable security measures for general aviation operations.

Sincerely,



Dennis G. Rouleau, C.M.
Airport Manager