



Briefing Paper

TSA Large Aircraft Security Program (LASP) NPRM

(Information courtesy of the National Business Aviation Association)

The Transportation Security Administration (TSA) has issued a Notice of Proposed Rulemaking (NPRM) that would mandate new security requirements on all aircraft weighing more than 12,500 pounds. In addition, TSA is proposing new mandatory security requirements at airports serving large aircraft.

Some of the major provisions for aircraft owners and operators include:

- criminal history record checks (CHRC)
- security threat assessments (STA) for flight crewmembers
- checking passenger names against the TSA's "No-Fly" and "Selectee" lists
- development of a security program
- biennial auditing of the security program

In addition, the proposal would require approximately 320 airports designated by the Department of Transportation (DOT) as "reliever" airports and airports that regularly serve scheduled or public charter operations in large aircraft to adopt a "partial" airport security program that would include specific training, record retention, personnel and notification requirements.

Acting on a petition from EAA and petitions by other aviation organizations the TSA has extended the time period for public comment on the agency's LASP proposal by an additional 60 days. As a result of the extension, the new deadline for public comment is February 27, 2009.

This briefing paper has been provided by EAA to help members and other interested parties better understand the TSA's proposal and to highlight the issues about which TSA is specifically seeking input through the NPRM process. This is not a document outlining EAA's position on the overall proposal or specific sections of the NPRM as these will be contained in EAA's official comments to the rulemaking docket to be submitted in late February 2009. It is sufficient for now to say that EAA has significant concerns with this proposal as it relates to all facets of personal and business aviation and particularly with the Federal Government's proposed impingement on the freedom of movement by private U.S. citizens and their family, friends, and business associates in their own personal or business-use aircraft. EAA strongly encourages our members and all persons engaged in recreational, personal and business aviation to participate in the TSA public hearings listed later in this document and submit thorough and well thought out comments to the docket. We hope this briefing paper and the attached guide to comments will help you in these efforts.

Major Provisions of the Large Aircraft Security Program (LASP) NPRM

Change in the Existing Regulatory Construction

Under TSA's current regulatory structure, each of TSA's aircraft security programs, such as the Aircraft Operator Standard Security Program (AOSSP) for the scheduled airlines, the Twelve-Five Standard Security Program (TFSSP) for on-demand charter operators, and the Private Charter Standard Security Program (PCSSP) for aircraft over 100,309 pounds occupies its own set of regulatory requirements. TSA is proposing to combine all of the security programs under a single regulatory framework and then identify which requirements apply to a particular operator.

This will eliminate the separate distinctions for TSA's current security programs for air carrier, charter, and private operations and combine all of them under a single Large Aircraft Security Program.

The NPRM proposes a number of significant modifications including the following:

Flight Crew Background Checks

The proposal would require flight crew, which under TSA's definition includes both pilots and flight attendants, to undergo a fingerprint-based Criminal History Record Check (CHRC) and a Security Threat Assessment (STA), similar to the requirements for airline pilots. TSA proposes to charge \$74 per person to complete the required checks. TSA would prohibit flight crew members that do not pass a CHRC and STA from operating the aircraft begging the question about what happens to private owner/operators who lose the privilege of operating their own aircraft thereby effectively placing the TSA in the position of taking property. The TSA would also require follow up STA's every 5 years.

Passenger Manifest Validation

TSA proposes to require passengers on board a "large" aircraft to have their names compared against two lists maintained by the Agency; the "selectee" list, which subjects commercial airline passengers to additional screening at the security checkpoint, and the "no fly" list which prohibits listed individuals from boarding a commercial flight today. While the TSA proposes that the operator only submit passenger names, additional biographical information, such as date of birth, place of birth and gender is under consideration.

Today, TSA provides these lists to commercial carriers who conduct the passenger vetting process in-house. The Agency does not want to send these lists to an additional 10,000 potential operators of aircraft over 12,500 pounds and thus has created a Watch List Service Provider (WLSP) who would conduct the passenger name vetting for the aircraft operator. TSA has set forth a number of requirements for companies that would act as WLSPs. The proposal would

also allow a WLSP to charge for this service but no price has been specified or proposed leaving this an open ended concern.

An operator would have the ability to either check passenger names on a flight-by-flight basis or by creating a Master Passenger List (MPL) for frequent or regular passengers. TSA would constantly vet passengers on the MPL, alleviating the need for a flight-by-flight check. Passengers would sign a written acknowledgement of their inclusion on the MPL since TSA would retain certain passenger information subject to continuous vetting.

TSA would prohibit passengers appearing on the “No Fly” list from flying on board the aircraft. TSA identifies other notification requirements for the operator to follow if a passenger’s name appears on the “Selectee” list.

To prevent duplicate submissions, TSA proposes that inbound international flights using the Bureau of Customs and Border Protection (CBP) Electronic Advanced Passenger Information System (eAPIS) would not need to submit passenger information to TSA. An operator’s manifest submission to CBP would satisfy TSA’s passenger name check requirement.

Operator Security Program

The TSA proposes to manage the requirements of the LASP through a security program developed by each operator. The proposal requires the security program to contain several significant elements. These include:

- **Designation of Key Security Personnel:** These include the Aircraft Operator Security Coordinator (AOSC), In-Flight Security Coordinator (ISC) and Ground Security Coordinator (GSC). The operator could assign a single person to perform all three functions and clearly would have to in the instance of a personal use aircraft. The AOSC is TSA’s principal 24-hour-a-day point of contact regarding dissemination of specific threat intelligence. The ISC and GSC oversee the in-flight and ground security elements of the operator’s security program.
- **Procedures to Address Passenger Name Matches:** If a passenger’s name matches one of TSA’s lists, the operator must follow specific instructions to identify if a real match has occurred. TSA may require additional screening if a name matches the “Selectee” list. TSA will require the operator to deny boarding to a passenger if the name matches with the “No Fly” list.
- **Transportation of Weapons:** TSA would require that operators transport weapons either in an inaccessible cargo area or in a locked box under the control of the ISC. This could raise significant issues for operations in Alaska and other remote operations.
- **Carriage of Prohibited Items:** TSA maintains a list of items prohibited in the cabin of a commercial aircraft. Some of these items include commons items carried on business and personal aircraft such as sporting equipment and tools. The proposal would require an operator to comply with this list of prohibited items designed for commercial aircraft. The prohibited items list is maintained at:
<http://www.tsa.gov/travelers/airtravel/prohibited/permitted-prohibited-items.shtm>

- **Aviation Security Contingency Plan:** This would require development of specific security-related procedures for use in the event of a security threat or other security related issue.
- **Securing of Aircraft and Facilities:** Requires the operator to identify procedures for securing aircraft while at home-base and on the road and for ensuring security of facilities supporting an operator's aircraft.
- **Carriage of a TSA Federal Air Marshal (FAM):** TSA would require operators of aircraft over 100,309 pounds to develop procedures to carry a FAM on their flights when notified by TSA.
- **Law Enforcement Assistance:** TSA would require operators to conduct training to ensure that employees understand procedures for obtaining law enforcement assistance in the event of a security need.
- **Bomb and Piracy Threats:** TSA would require operators to follow specific regulatory requirements in the event an operator receives a threat of a bomb or piracy.
- **Security Directives and Information Circulars:** TSA utilizes Security Directives (SDs) to quickly address very specific security threats. SD's are similar to FAA Airworthiness Directives in that they carry the authority of a regulation. Also important to note is that a SD does not follow a public rulemaking process due to the sensitive security information that it addresses. Information Circulars describe more general security concerns.

Security Audits

TSA has identified many challenges of overseeing approximately 10,000 aircraft operators covered by this proposal. While Congress has removed the cap on TSA's maximum number of employees, hiring a sufficient number of GA inspectors would prove daunting. TSA has proposed the use of third-party auditors to conduct security inspections of the LASP. The auditor would not have authority to require modifications to procedures or facilities. The auditor would submit a report to TSA who would determine regulatory compliance. TSA could accompany any inspector during an audit.

TSA proposes that the operator would contract with an auditor, at their own cost, to perform this security inspection. The auditor would inspect for compliance within 60 days of TSA approving the operator's security program and then every two years thereafter. No price has been identified by TSA for this service.

TSA also proposes a number of specific regulatory requirements for the auditors themselves that include:

- Successfully undergo a TSA security threat assessment.
- Currently hold or be able to obtain a certification or accreditation from an organization recognized by TSA.
- Have sufficient knowledge and skills to conduct a security audit of an aircraft operator.
- Receive initial and biennial training.
- Conduct independent and impartial audits, submit audit reports to TSA, and retain audit reports for 36 months.

- Identify, handle, and protect Sensitive Security Information and keep confidential other information provided by TSA and large aircraft operators.
- Submit to inspection by TSA.

Phased Compliance Schedule

TSA proposes to phase in compliance with the LASP based on the geographic location of the based aircraft.

- Mid Atlantic region: final rule + 1-4 months
- Northeast region: final rule + 5-8 months
- Southern region: final rule + 9-12 months
- Midwest region: final rule + 13-16 months
- Western region: final rule + 17-20 months
- Existing security program holders: final rule + 21-24 months

Airport Security Requirements

The proposal identifies approximately 320 airports that would need to adopt a “Partial” airport security program. The TSA has identified these airports as either a DOT defined reliever airport or a public or private airport that regularly serves scheduled or public charter operations in large aircraft.

The “Partial” airport security program would require:

- Designation of an airport security coordinator
- Training program for law enforcement personnel
- Description of law enforcement support
- System for maintaining records
- Procedures for dealing with Sensitive Security Information (SSI)
- Procedures for posting public advisories
- Incident management procedures

TSA Large Aircraft Security Program: Public Meeting Schedule

- **Note: All meetings begin at 9:00 am with registration opening at 8:00 am**

Jan 6, 2009	White Plains, NY: Westchester County Airport (HPN), Building 1 Airport Road, White Plains, NY 10604
Jan 8, 2009	Atlanta, GA: Renaissance Concourse Hotel Atlanta Airport, One Hartsfield Centre Parkway, Atlanta, GA 30354
Jan 16, 2009	Chicago, IL: Crowne Plaza Chicago O’Hare Hotel, 5440 North River Road, Rosemont, IL 60018;

Jan 23, 2009	Burbank CA: Burbank Airport Marriott Hotel, 2500 North Hollywood Way, Burbank CA, 91505
Jan 28, 2009	Houston, TX: Conference Center, Hilton Houston Hotel-North Greenspoint, 12400 Greenspoint Drive, Houston, TX 77060

In advance of the public meetings, TSA has identified several areas where comments from the industry are desired. These key issues are designed to focus public comments on the topics that TSA must consider to complete its review of the LASP proposal. Individuals planning to make comments at the public meeting are encouraged to review these issues in advance.

According to the procedures established by TSA for the public meetings, individuals wishing to speak will be limited to a three minute statement scheduled on a first-come, first-served basis. Upon arriving at the meeting site, individuals must register with TSA in order to make comments during the meeting. Because of the short time being allotted for presentations EAA strongly encourages participants to submit written statements to expand on their oral presentation.

The specific areas of the LASP proposal that TSA is seeking input are:

1. The weight threshold of aircraft covered by the proposed rule.
2. The phased approach in the implementation of the proposed rule and the determination of which phase would be applicable to each large aircraft operator.
3. The security threat assessment (STA) requirements, including the transferability of STAs for flight crew members and whether a proprietor, general partner, officer, director, or owner of aircraft operators should undergo a STA
4. Methods for in-flight positive identification of pilots and effectively linking them to the aircraft they are operating
5. The watch list service provider (WLSP) requirement, including comments on the WLSP's system security plan, the role that watch-list service providers may continue to have if the responsibility for watch-list matching shifts to the U.S. Government in the future, whether there should be a limitation of the number of entities that would be approved as a WSLP, and whether WLSP covered personnel should be limited only to U.S. citizens, nationals or lawful permanent residents.
6. Whether TSA should establish a minimum time for submission of passenger information to the service providers, what that minimum time should be, and the reasons supporting the suggested minimum time.
7. Whether full security program aircraft operators should be permitted to conduct their own audit and/or watch list matching on flights operated under their LASP.
8. Proposed privacy notice requirement.
9. The third party auditor requirement, including the establishment of a system of assigning auditors and methods of doing so, qualifications of auditors, and conflict of interests and independence issues affecting an auditor.
10. Whether certain large aircraft operators (for instance, operators that are not carrying persons or property for compensation or hire or with aircraft having a MTOW of more

than 45,500 kg) should have a different requirement as to what weapons are prohibited (for example, limit the prohibited items to only guns and firearms).

11. The requirement for security coordinator, including the use of a single individual for multiple security coordinator roles.
12. Whether any other types of airport should be covered by a security program.
13. Amendment of the partial program or the supporting program for airports.
14. Applicability of the proposed rule to fractional ownership operations.
15. Qualifications of individuals who would be exempted from liability under the voluntary provision of emergency services.
16. The burden estimates, estimated costs of compliance, estimates regarding the small entities affected, and economic impact on the newly-regulated entities.

Guide to Issues Raised in the LASP NPRM

The following pages contain a table outlining the various issues raised by the NPRM on which the TSA is seeking input both in person at the public hearings and in written comments to the rulemaking docket. While many of the issues raised by TSA are more pertinent to corporate flight departments than personal-use aircraft, this table can be used as a guide to understanding the proposal and framing your comments and responses. Naturally, EAA encourages everyone to comment on any other elements of the proposal and how it would impact your operations in addition to the issues raised by TSA. The page numbers listed in the table reference the location that the issue is raised within the 260-page notice of proposed rulemaking “preview document” that was released prior to publication in the Federal Register. A copy of the NPRM “preview document” can be downloaded at:

http://www.tsa.gov/assets/pdf/nprm_lasp.pdf

TSA Question	Page #	Member Response
1. Comment on weight threshold of aircraft covered by this proposal.	10	
2. Comment on the phased approach and on determining which phase would be applicable to each large aircraft operator based on the location of the aircraft or headquarters.	24	
3. Comment on whether the Security Threat Assessment (STA) should be transferable so that the flight crew member would need to undergo only one STA every 5 years, regardless of the number of employers the flight crew members may have within the 5-year period.	26	
4. Commend and recommended methods for positively identifying	26	

pilots and effectively linking them to the aircraft they are operating.		
5. Comment on the role that watch list service providers may continue to have if the responsibility for watch list matching shifts to the US government in the future. For example, would watch list service providers offer their services to consolidate passenger information from large aircraft operators and to transmit the passenger information to Secure Flight?	29	
6. TSA is considering whether to require all individuals to provide their gender and date of birth to assist in the watch list matching and resolution process.	33	
7. Comment on whether it should establish a minimum time for submission of passenger information to the service providers, what that minimum time should be, and the reasons supporting the suggested minimum time.	33	
8. Comment on whether full program aircraft operators should be permitted to conduct watch list matching for passengers on flights operated under their LASP using the system or process that they use for flights operated under their full security program, including TSA's Secure Flight Program when it is available.	38	
9. Comment on how a privacy notice could be provided during the collection of information while considering the feasibility, costs, and effectiveness of providing such notice.	38	
10. Comment on whether the proposed record retention for the Secure Flight Program should be applied to large aircraft operators and watch list service providers to ensure that personally identifiable information is not retained longer than necessary.	39	

11. TSA is considering requiring large aircraft operators and watch list service providers to retain passenger information for passengers who are cleared, for 3 years, to facilitate the audit that large aircraft operators would undergo every 2 years under proposed 1544.243 and compliance oversight.	39	
12. Comments on whether the watch list matching service providers should serve as part of the long term solution to large aircraft watch list matching, such as by gathering the passenger information from the aircraft operators and submitting it to TSA for watch list matching, then receiving the results from TSA.	41	
13. Comment on whether maintaining the watch list matching service providers may reduce the costs associated with a transition to the Secure Flight Program.	42	
14. Comment on whether to include a system of assigning auditors in the final rule and on methods of doing so.	43	
15. Comment on whether it is necessary to require full program aircraft operators that also operate flights under a LASP to contract with a third party auditor to conduct a biennial audit of their operations for compliance with their security program and TSA regulations.	43	
16. Comment on large aircraft operators that are not carrying persons or property for compensation or hire – should “weapons” be limited to guns and firearms.	45	
16A. Further, should there be a different requirement depending on whether the aircraft has a MTOW of 45,500K or less or more	45	

than 45,500 kg?		
17. Comment on whether there is a more cost effective means of meeting the same or substantially similar security goals of the aircraft operator security coordinator requirement.	45	
18. Comments on the use of a single individual for multiple security coordinator roles.	46	
19. Comments on whether other types of airports should also be required to adopt a security program, such as the partial program.	62	
20. How should TSA determine whether an airport “regularly serves” a large aircraft with MTWO of over 45,500 kg or a passenger seat configuration of 61 seats or more?	62	
21. Comments on whether the content requirements of the partial program and the supporting program should be amended.	63	
22. Comments on whether auditors with these important duties should be subject to a qualification such as US citizen, US national or lawful permanent resident of the US.	72	
23. Comments on auditor qualifications as well as other requirements that TSA should consider for auditors of LASP.	76	
24. Comment on whether it should require certain individuals with the aircraft owner company should undergo a STA.	87	
25. Comment on whether we should provide additional features of subpart K (Fractional Ownership) in these regulations such as the requirement that the program manager brief the fractional owner.	88	

26. Comment on limiting the number of entities that would be approved watch list service providers, including what criteria would be used to determine which applicants would be approved and how many watch list service providers should be approved.	98	
27. Comment on whether to require covered personnel (at watch list service provider) to be US citizens, US nationals or lawful permanent residents of the US	99	
28. Comments on which standards and controls in the NIST Special Publication 800-53 should apply to watch list service providers systems.	101	
29. Comments to evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency including whether the information will have practical utility	130	
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31. comments to enhance the quality, utility and clarity of the information to be collected	130	
32. Comments to minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology	130	
33. Requests detailed comments to enable quantification of the impact for new and existing operators	141	
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of rule on small businesses		
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36. Comment on whether TSA may have under or over estimated the number of small entities affected.	158	
37. Comment on preliminary determination of whether this would be a significant economic impact on covered aircraft.	165	
38. Comments on whether the proposed rule would have a significant economic impact on a substantial number of newly regulated aircraft operators.	171	
39. Comments on whether a self assessment tool should be mandatory but has not set it forth as a requirement under the proposed rule.	172	
40. Comments on whether it should adopt a self paced training program for affected airports that would reduce the impact of this requirement	173	
41. Comment on preliminary conclusion that airport rules would not impose a significant economic impact.	174	
42. Comment on whether the proposed rule would have a significant economic impact on the 68-74 publicly owned small airport operators that TSA identified in its research.	175	
43. Comments on use of TSA inspectors to conduct audits	176	
44. Comments on TSA’s no determination of significant economic impact on small entities	182	