



U. S. House of Representatives
Committee on Transportation and Infrastructure

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Washington, DC 20515

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Ranking Republican Member

February 27, 2009

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The Honorable Janet Napolitano
Secretary
Department of Homeland Security
Washington, D.C. 20528

Re: Docket No.: TSA-2008-0021; Large Aircraft Security Program, Other Aircraft Operator Security Program, and Airport Operator Security Program

Dear Secretary Napolitano:

I am writing to comment on the Department of Homeland Security's (DHS) Large Aircraft Security Program (LASP) Notice of Proposed Rulemaking (NPRM) issued in October 2008. In the LASP NPRM, the Transportation Security Administration (TSA) proposes to expand the scope of current general aviation security requirements and to add new requirements for certain large aircraft operators and airports serving those aircraft. More specifically, the TSA is proposing to require that all aircraft operations, including corporate and private operations, with aircraft with a maximum certificated takeoff weight above 12,500 pounds ("large aircraft") adopt a large aircraft security program. This security program would be based on the current security program that applies to commercial operators providing scheduled or charter services.

I have been monitoring the LASP NPRM comment and review process and have met with representatives of the general aviation industry. Additionally, my staff has met with TSA personnel who are involved in the rulemaking process. I have also received comments from several general aviation associations as well as general aviation pilots and businesses (both small and large) that have raised concerns with the LASP NPRM. In addition, the Experimental Aircraft Association (EAA) is headquartered in my District and EAA representatives have shared their concerns with me. This NPRM will have a severe impact on EAA activities, including *AirVenture*, their annual air show which is the largest general aviation air show in the world attended by more than 500,000 people each year.

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First, I have long questioned whether general aviation is truly a high risk terrorist target. Therefore, I think that the TSA's actions related to the proposed LASP are extreme and unnecessary. The TSA's mission statement states, "The Transportation Security Administration protects the Nation's transportation systems *to ensure freedom of movement for people and commerce*" [emphasis added]. With the introduction of the LASP NPRM, I believe that the TSA has lost sight of the important balance between security and the free flow of commerce.

I would encourage the Department to carefully evaluate the security risk posed by private general aviation within the United States and balance that risk with security enhancements already in place in the general aviation community. For instance, the Federal Aviation Administration's (FAA) aircraft registry allows the Federal Government to track and monitor private aircraft ownership. Additionally, general aviation operators are well aware of who is on their aircraft and can and do report suspicious activities. These existing layers of security can easily be leveraged to improve general aviation security without negatively impacting the free movement of people and commerce.

Second, I have serious concerns with the direction that the NPRM takes the DHS and TSA. With this proposal, the Government is inserting itself into the lives of private citizens in their own personal transportation conveyances. For the first time, a citizen of this country would have to seek direct approval to travel within their own country in their own personal aircraft and seek specific approval before carrying anyone with them including family, friends, and co-workers. This is an enormous invasion into the private lives and affairs of citizens of a free country. I ask that the DHS carefully consider the precedent this would set, particularly in light of the low security risk it is seeking to address.

Third, I believe that the TSA is mixing apples and oranges by requiring private operators to comply with the same security requirements currently applicable to commercial operators who use the same type (or category) of aircraft. In the world of surface transportation, this would be like requiring owners of private recreational vehicles (RVs) to undergo the same commercial security requirements required of truck or bus companies simply because the privately-owned RV is built on the same frame as a bus or truck. When put in this context, it is clear that equating the private operator to the commercial operator makes no sense. More to the point, the American public would never accept a Government regulation that dictated that owners of minivans, SUVs, and pickup trucks and their passengers be cleared by the TSA before they could leave their driveway. Yet that is the very thing the TSA is proposing to require of private aircraft owners and operators under this rule.

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Finally, I have grave concerns that the proposed rule seems to have been developed with no understanding of how general aviation, and in particular business aviation, operates. Therefore, I would encourage the DHS and TSA to initiate a negotiated rule-making process for general aviation security. This process is allowed under the Administrative Procedures Act and has long been successfully utilized by the FAA in the aviation arena. General aviation is a unique and complex industry. It would benefit the TSA and the general aviation community to work together to propose security regulations that both enhance security and allow for the free movement of people and commerce. It would also allow the TSA and DHS to benefit from the expertise of general aviation operators and to better understand the unique nature of this diverse industry.

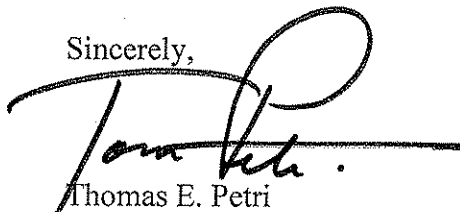
I believe that the above comments set forth the major concerns I have the LASP NPRM, but they are certainly not all inclusive. I ask that you pay particular attention to and specifically address the following matters:

- The significant adverse impacts the LASP NPRM will have on small aviation and general aviation-related businesses throughout the United States.
- The onerous nature of many of the mandates that the NPRM would place on small business owners and private citizens.
- The concerns that a "one-size-fits-all" approach is inadvisable given the significant differences in operations in the general aviation community.
- The concerns about the 12,500 lbs. threshold and whether it makes sense in this context.

While I agree that aviation security is an important goal, I ask that TSA and DHS carefully review the LASP NPRM to ensure that the benefits to aviation security are appropriately balanced with the level of impact to the unique group of private citizens and small businesses that are affected by the NPRM. At the very least, DHS and TSA should initiate a negotiated rulemaking process on general aviation security to achieve the dual goals of enhanced security and the free movement of people and commerce.

Thank you for the opportunity to provide comments on the Large Aircraft Security Program NPRM. Your close consideration of these comments is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Petri", with a large, stylized flourish above the name.

Thomas E. Petri
Ranking Republican Member
Subcommittee on Aviation