



AIRCRAFT OWNERS AND PILOTS ASSOCIATION

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February 9, 2010

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
West Building Ground Floor, Room W12-140
Washington, D.C. 20590-0001

Re: Notice of Proposed Rule Making, Aircraft Repair Station Security, Docket TSA-2004-17131

Dear Sir/ Madam:

The Aircraft Owners and Pilots Association (AOPA) is a not-for-profit individual membership organization representing more than 416,000 members, which is nearly three-quarters of the nation's pilots. AOPA's mission is to effectively represent the interests of its members as aircraft owners and pilots concerning the economy, safety, security, utility, and popularity of flight in general aviation (GA) aircraft.

On November 17, 2009, the Transportation Security Administration (TSA) issued a Notice of Proposed Rulemaking (NPRM) entitled "Aircraft Repair Stations". The NPRM proposes to amend existing aviation transportation security regulations by extending to a broad and very diverse group, foreign and domestic Part 145 certificated repair stations, a comprehensive and costly regime of security regulations.

AOPA has been a proponent of reasonable measures that enhance aviation security without unnecessarily imposing regulatory costs on small businesses, or unduly infringing upon citizens' freedom of movement and right to privacy. Furthermore, AOPA supports the intent behind this proposed rule, but questions its extension to non air carrier facilities.

AOPA's 416,000 members continue to be committed to strengthening general aviation security, but the proposed rule raises concerns focused on the following areas:

The proposed rule is beyond the intent of the legislation.

This NPRM was issued by TSA to comply with the mandate of the Vision 100-Century of Aviation Reauthorization Act and was not rooted in a credible security threat or from a formal threat assessment. In analyzing Vision 100- Century of Aviation Reauthorization Act, it is clear that the scope of the legislation is limited to the oversight of repair stations performing work on air carrier components at foreign repair stations. House Report language requested that audits be

performed to “ensure that foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, are subject to an equivalent level of safety, oversight, and quality control as those located in the United States.”¹ The Report also requests the development of procedures for suspensions and revocations of a foreign repair certificate. The Report language makes no mention of general aviation aircraft repair facilities and attempts to impose unnecessary regulations on a segment of the industry without a valid threat assessment or further guidance from Congress. AOPA requests that TSA not exceed the intent of the legislation and limit this rule to foreign repair stations only.

On November 18, 2009, the House Subcommittee on Transportation Security and Infrastructure Protection held a hearing to discuss the complex issue of foreign repair stations. The hearing, “Is the Flying Public Protected? An Assessment of Security at Foreign Repair Stations”,² focuses on the intent of Congress to secure foreign repair stations, specifically in regards to domestic air carrier outsourcing. Chairwomen Jackson-Lee closed this hearing by asking the panel if they would be comfortable narrowing focus and limiting regulation to foreign repair stations. Because of existing measures in place at U.S. airports, the panel acknowledged that the focus of concern and regulation should fall towards foreign repair stations. AOPA urges the TSA to narrow its scope to reflect these Congressional concerns.

During the December 2, 2009 Senate Commerce Committee hearing, titled “Transportation Security Challenges Post 9/11”, the discussion of securing repair stations was lead by Senator McCaskill. The Senator focused solely on foreign repair stations and their role in airline maintenance. Senator McCaskill emphasized that, “[The U.S.] has significant repair work being done in places around the globe where [the] American people would not be comfortable with the level of security and oversight that we're providing...” Again, reemphasizing the intent to focus security efforts on foreign repair stations. DHS Secretary Napolitano, who testified at the hearing, agreed that the discussion reveals an important point, stating that, “homeland security does not begin at the borders of the United States”³. Security measures and FAA oversight already exists in the United States. Thus, the focus of this NPRM needs to be outside of our country’s borders.

If this rule must be extended to cover domestic repair facilities, it should only be applicable to those that perform work on TSA regulated air carrier aircraft. By limiting this rule to foreign repair stations, or those that only serve air carrier aircraft, TSA will be able to address any security vulnerabilities identified and comply with the mandate dictated by Vision 100, without stretching resources and the limited inspection capability that exists.

¹ House Report 108-334-Vision 100—Century of Aviation Reauthorization Act, Section 611. Foreign Repair Stations

² House Subcommittee on Transportation Security and Infrastructure Protection hearing “Is the Flying Public Protected? An Assessment of Security at Foreign Repair Stations”. Wednesday November 18, 2009.

³ Senate Commerce Committee hearing “Transportation Security Challenges Post-9/11”. Full Committee. Wednesday December 2, 2009.

General Aviation

The general aviation (GA) community has made significant strides in improving its security posture post 9-11 including strengthening of security awareness and the implementation of programs such as AOPA's Airport Watch and the 1-866-GA-SECURE hotline. These programs capitalize on the sense of community that exists at general aviation airports and the ability to spot suspicious events and occurrences. Additionally, the TSA and industry collaborated to create *Security Guidelines for General Aviation Airports* and provide best industry practices for these facilities. Given that the intent of the legislation requiring this NPRM was to prevent the unauthorized introduction of weapons and other devices on commercial air carrier aircraft during maintenance, it is not appropriate for the TSA to include general aviation in the new regulation without justification.

By including domestic general aviation in this NPRM, implementation of the proposal becomes unworkable. The majority of general aviation repair stations in the United States are small businesses located on a non-Part 1542 TSA regulated airports. The NPRM as proposed requires the repair station to carry out the standard security program, which includes a description of access controls and challenge procedures for the facility. AOPA has concerns with the practicality and costs of these measures at a non-TSA regulated airport. For example, the typical general aviation airport has security components that are designed to protect unauthorized persons from entering the facility from the street, or public side of the airport. Sections of the facility that open to the airport such as hangar doors are not normally included in a security program. This practice is consistent with general guidelines since those persons that would access the facility from the airside, i.e. pilots and aircraft owners are authorized to be in that area. Often on warm summer days, the hangar door will remain open. Not knowing the difference between a regulated maintenance facility and non-regulated facility, an aircraft owner who walks into the hangar from the ramp might potentially find himself in violation of security procedures without even knowing.

It is more reasonable to expand funding for programs such as AOPA's Airport Watch and encourage overall security awareness at a general aviation airport as a whole than to try to focus solely on the small repair station and its employees.

NPRM as presented is not feasible.

Repair stations can exist on or off an airport and are situated on both general aviation and commercial service airports. Due to the large variation in types and the location of repair stations, trying to develop a security plan and audit system for these vast differences is unrealistic. AOPA appreciates that in the NPRM, the TSA acknowledges that a one size fits all approach will not work. However, the proposed requirement for all repair stations to implement the standard security program appears to negate that statement. How can something standard be mandated and still account for diversity? Only those repair stations that service commercial air carrier aircraft should be required to follow and implement the standard security program.

Based on the details provided in the NPRM, a standard security program consisting of

- a description of measures used to identify individuals,
- access control measures,
- a description of measures to challenge and individual,
- a description of security training measures,
- details regarding employee background information,
- establish a security coordinator,
- a contingency plan,
- a diagram of the repair station,
- list of all entry points, and
- an emergency response contact

would be overly burdensome to those smaller repair stations where the security risk is minimal.

TSA has stated that this rule has been found to have a significant impact to a substantial number of small businesses. Most of these small businesses perform much of their work for the general aviation community. The cost analysis discussed by TSA underscores the cost to general aviation. Unlike airports that are regulated under Part 1542, general aviation airports and repair stations located at these airports, may not have fencing, surveillance cameras, security guards, ID badging, employee background investigation measures, access control systems or an existing security program in place. The costs to establish these baseline requirements were not considered in the analysis and would not be feasible for a small facility at a general aviation airport. The TSA would be increasing costs for those least likely to afford it.

Redundancy

Because TSA has issued Security Directive 1542-04-08G, which required any person with unescorted access to an airport operations area (AOA) to undergo a security threat assessment and gain an airport ID, many items in this NPRM become redundant when applied to domestic repair stations. Security Directive 08G mitigates the need to regulate badging, employee background verification, access control and challenge procedures. To require it through this rule would be redundant and a waste of resources. The security directive's implementation already meets the goals set forth in this proposal at domestic facilities regulated under Part 1542.

Weight Threshold

In the NPRM, TSA seeks comment on whether or not repair stations that serve aircraft under a specified weight should be exempt. AOPA is encouraged by TSA's action to focus on the most likely threats and terrorist targets. Similar to the Large Aircraft Security Program proposed by TSA in the fall of 2008, TSA is proposing a weight based approach rather than an operation based approach in securing the repair stations. TSA is applying commercial security standards to individual repair stations that service aircraft operated under Part 91. The rule does not take into account the inherent differences between commercial air travel and private operations.

The general aviation aircraft flown from America's 5,261 community airports are ill-suited for terrorist use, given that they lack the weight, speed, fuel, and load-carrying capacity to do significant damage to a target. The vast majority of the general aviation fleet is comprised of small single-engine aircraft with six or fewer seats. The typical GA aircraft, such as a Cessna 172, weighs even less than a subcompact Honda Civic, carries significantly less cargo, and travels at speeds of about 130 miles per hour. As a result, it would take more than 1,000 small planes acting as one to equal the destructive potential of a single airliner.

The NPRM is designed to enhance repair station security and to mitigate and reduce the likelihood that terrorists would be able to gain access to aircraft under repair at that facility. The fact that aircraft at these facilities are normally not in an airworthy condition (as dictated by the fact that they are in for repair) and their low attraction as a terrorist weapon, further bolsters the argument to exclude general aviation facilities from the proposal.

However, if the TSA finds it necessary to differentiate through aircraft weight versus operational characteristics, then, it should reflect a weight consistent with the soon to be released large aircraft security program supplemental NPRM.

Security Directive

This rule would require repair stations to comply with Security Directives (SD) issued by the TSA. Based on recent actions by TSA to issue wide sweeping Security Directives and skirting the regulatory process to seek public comment, AOPA does not support this proposed requirement.

The TSA has used Security Directives to change many provisions of existing TSA regulations outside the normal regulatory process, bypassing critical input and comment from impacted parties. This change is an abuse of the SD process which was established to address specific threats of a finite duration. Furthermore, Security Directives are distributed as Security Sensitive Information (SSI), limited to only the regulated entities and those TSA believe have a "need to know." This has caused a lack of communication and misunderstanding among those involved. AOPA has concerns with this requirement because it could allow the TSA to issue an infinite number of mandates and requirements, but provide no advance notice or request feedback, which could eventually destroy the repair station business.

AOPA is concerned about the unintended consequences of Security Directives. TSA only has a presence at Part 1542 airports, yet this rule proposes to regulate beyond those airports. This creates the unintended consequence for a general aviation airport to adhere to costly security directives aimed towards airline operators and foreign facilities.

Suspension and Revocation

This proposed rule would establish procedures to suspend and revoke a repair station certificate if TSA determines that a foreign repair station poses an immediate risk to security. AOPA

requests that TSA follow the procedures already in place for the revocation of an FAA airmen certificate. That is, the repair station can appeal that decision to an independent third party — first an administrative law judge and then the National Transportation Safety Board (NTSB). TSA and the FAA can implement Congress's intent of Vision 100 in a lawful manner and at the same time afford the repair station the due process historically provided by the federal transportation code.

Given the diversity of the repair stations that would be affected by this rule and the intent of Vision 100 to implement security measures for repair stations working with airliners and those overseas, TSA should issue this rule only to foreign repair stations. If TSA feels that domestic repair stations must be regulated, only those repair stations that service air carrier aircraft airports should be included.

Sincerely,

A handwritten signature in black ink, appearing to read 'me R', with a long horizontal line extending to the right.

Melissa Rudinger
Senior Vice President
Government Affairs
Aircraft Owners and Pilots Association