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U.S. Department of Homeland Security
Office of the General Counsel
245 Murray Lane, Mail Stop 0485
Washington, DC 20528-0485
ATTN: DHS Retrospective Review

Re: Docket No. DHS–2011–0015: DHS Retrospective Review

The Aircraft Owners and Pilots Association (AOPA) is a not-for-profit individual membership organization representing more than 400,000 members. AOPA’s mission is to effectively serve the interests and needs of its members as aircraft owners and pilots and establish, maintain, and articulate positions of leadership to promote the economy, safety, utility, and popularity of flight in general aviation aircraft. Representing two thirds of all pilots in the United States, AOPA is the largest civil aviation organization in the world. AOPA submits the following comments for consideration as the Department of Homeland Security (DHS) conducts a review of its existing regulations.

On March 14, 2011, in accordance with Executive Order 13563, “Improving Regulation and Regulatory Review”, the Department of Homeland Security issued a notice and request for comments regarding their review of its existing regulations to evaluate their continued validity and determine whether they are crafted effectively to solve current problems. The preliminary plan will include criteria for identifying existing DHS significant rules that might be modified, streamlined, expanded, or repealed, so as to make DHS's regulatory program more effective or less burdensome in achieving its statutory objectives.

AOPA’s recommended changes are listed below. These recommendations represent positive regulatory changes that would benefit the general aviation community yet continue to ensure an equivalent level of security as that established by the existing set of regulations. To devise a list of constructive regulatory changes, we reviewed the commonly asked questions and concerns expressed by active general aviation pilots and aircraft owners. AOPA also examined existing regulations to determine if they are appropriate and effective. The Association is requesting that the DHS act on the following recommendations to promote economic growth in general aviation and lessen the burdens imposed on pilots and aircraft owners.

AOPA's Recommendations

AOPA Recommendation: Eliminate Special Requirements for the Maryland 3 Airports

Current Regulation: TITLE 49 - TRANSPORTATION

SUBTITLE B - OTHER REGULATIONS RELATING TO TRANSPORTATION

CHAPTER XII - TRANSPORTATION SECURITY ADMINISTRATION, DEPARTMENT OF
HOMELAND SECURITY, SUBCHAPTER C - CIVIL AVIATION SECURITY

PART 1562 - OPERATIONS IN THE WASHINGTON, DC, METROPOLITAN AREA

subpart a - MARYLAND THREE AIRPORTS: ENHANCED SECURITY PROCEDURES FOR
OPERATIONS AT CERTAIN AIRPORTS IN THE WASHINGTON, DC, METROPOLITAN AREA
FLIGHT RESTRICTED ZONE

Rationale for Change: General aviation in the National Capital Region (NCR) has suffered greatly due to the implementation of the Washington, D.C. Special Flight Rules Area (SFRA) [*formerly the Washington, D.C. ADIZ*] and the Washington, D.C., Metropolitan Area Flight Restricted Zone (FRZ). The FRZ covers approximately the area within a 13-15 nautical mile radius of the Washington, D.C., VOR/DME and severely limits the operations at three airports located within the FRZ. The three airports referred to as the "Maryland Three," or "DC-3," are College Park (CGS), Washington Executive/Hyde Field (W32), and Potomac Airfield (VKX), and each has suffered substantial economic hardship as a result of the imposed restrictions. The FRZ airspace and its associated restrictions, initially implemented under SFAR 94 and since codified into [FAR Part 93](#) and [TSR Part 1562](#), require that the Transportation Security Administration (TSA) perform background checks and issue a personal identification number (PIN) to pilots using the "DC-3" airports, a process which is both time-consuming and inconvenient for most pilots and extremely prohibitive for pilots outside the Washington, D.C., metro area. This appears unnecessary given that the TSA currently performs background checks on all pilots comparing these individuals against the terror watch list which begs the question what additional security protections are actually being enhanced at these three airports that justifies the greater burden. In addition, all pilots operating in the SFRA are required to have filed flight plans evidencing their flight intentions and are operating within the SFRA under positive air traffic control. And, the FAA is moving to put photographs on airman certificates, which may further enhance security objectives. The restrictions that have been imposed on general aviation as a result of this regulation have unnecessarily burdened individual aircraft owners and pilots and imposed economic hardship on local businesses at these facilities with no apparent increase in necessary security.

AOPA Recommendation: Eliminate the Outbound requirement to file eAPIS manifest with Customs and Border Protection.

Current Regulation: DEPARTMENT OF HOMELAND SECURITY, 8 CFR Part 231, Bureau of Customs and Border Protection, 19 CFR Part 122, Advance Information on Private Aircraft Arriving and Departing the United States

Rationale for Change: No other personal modes of transportation are required to file outbound manifests. Legislation that established the requirement for private aircraft to transmit manifests specified only upon arrival into the United States, and yet when the final rule was proposed the addition of an outbound notification was proposed. AOPA commented that the proposal exceeded the legislative

DHS-2011-0015 – AOPA Recommendations

April 12, 2011

requirement and unnecessarily burdened aircraft owners and pilots. We fail to see the security benefit in singling out general aviation by imposing the requirement that pilots provide CBP with departure notification and the screening of passenger manifest for small aircraft leaving the country. AOPA strongly encourages The Department to revisit and amend the rule to remove this unnecessary requirement.

AOPA Recommendation: Repeal TSA issued Security Directive (SD) 1542-04-08F/G (SD-08F/G)

Current Regulation: Information Classified as Sensitive Security Information “SSI”

Rationale for Change: The Security Directive changes many provisions of existing TSA regulations outside the normal regulatory process bypassing critical input and comment from impacted parties. This change represents an inappropriate use of the SD process, which was established to address specific threats of a finite duration. The result is a patchwork of non-compatible procedures being implemented at airports nationwide that continue to exist instead of expiring naturally after a threat has passed and that have the potential to significantly and unnecessarily harm general aviation operators and the commercial service airports where they are based. It has also resulted in concerns and unanswered requests for guidance for transient pilots, especially those landing after hours. 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 communication gaps and misunderstandings for airport tenants, flight schools, transient pilots and maintenance providers at airports with commercial airline service. As mentioned earlier in these comments, TSA vets pilots against numerous terror watch lists on a regular basis so there is little if any additional benefit that is being achieved. AOPA strongly encourages The Department to review existing Security Directives that impact general aviation operators and either repeal or codify through the Administrative Procedures Act (APA), which includes a full review of the economic impact and cost benefit analysis required under that act.

AOPA Recommendation: Modify and Streamline TSA Regulations Governing Flight Training for Aliens and other Individuals

Current Regulation: 49 Code of Federal Regulations Part 1552 as Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees; Interim Rule.

Rationale for Change: The Alien Flight Student Program was established in response to the Aviation and Transportation Security Act (ATSA) and further amended by the Century of Aviation Reauthorization Act (Vision-100) giving the responsibility for background checks of aliens seeking flight training to DHS and the Transportation Security Administration (TSA). While AOPA understands the political realities that lead to this rule and the efforts by TSA to streamline the process and procedures being utilized, problems nonetheless remain and place an unnecessary burden on the flight training industry. In particular, Part 1552 of TSA’s Security Regulations governing “Flight Schools” has imposed for several years a requirement that individual flight instructors certificated by the FAA receive initial and annual security awareness training. That is because, and what is not easily discernable, the TSA definition of “flight school” includes a significant number of individual flight instructors, non-school affiliated, that provide the bulk of flight instruction in this country. Most are members of our association. The FAA imposes on these same flight instructors a requirement for the periodic renewal of their flight instructor certificates. 14 CFR § 61.197. A commonly used method of meeting the FAA requirement is the successful completion within the past 24 calendar months of an approved flight instructor refresher course consisting of ground training or flight training. The AOPA Foundation has for some time been

DHS-2011-0015 – AOPA Recommendations

April 12, 2011

conducting such refresher courses. These two requirements, imposed on the same flight instructors, have timing limitations that do not mesh, imposing the a burden on most flight instructors to attend two different training sessions when both requirements could be satisfied in a single extended training session, without serious derogation to aviation security or safety. The TSA requirement is for “recurrent security awareness each year in the same month as the month the flight school employee received initial security awareness training.” The effective duration of a renewed FAA flight instructor certificate is essentially 24 calendar months. These two timing requirements are not easily reconciled. It is respectfully recommended that the TSA rule be amended to allow the requirement for security awareness training to be satisfied at an FAA approved flight instructor refresher course. Admittedly this will extend the TSA one-year time limit to essentially two years. But by now the flight instructor corps has received the TSA training. New entrants will be required to receive the initial TSA training, and there should be no significant derogation of aviation security or safety to modestly extend the period of effectiveness of the TSA training received at an FAA approved course. In a similar filing to this notice by the General Aviation Manufacturers Association (GAMA), a comprehensive description of the problem and proposed solutions is discussed. AOPA fully supports the GAMA proposal to create a rulemaking committee to examine ways that this rule can be streamlined and improved without compromising security.

Although the proposal to make changes to the Blocked Aircraft Registration Request (BARR) program is primarily a Department of Transportation (DOT) issue, the security implications that would arise if the proposed changes are adopted warrant Department of Homeland Security scrutiny. AOPA filed comments in opposition to the proposed changes with DOT pointing out the inconsistencies in the program changes and DHS’s mission to secure the Nation. A full copy of our comments can be viewed by reviewing the Federal Aviation Administration Docket Number FAA-2011-0183. I strongly encourage DHS to oppose these changes as well.

AOPA respectfully submits these recommendations in support of Executive Order 13563, calling for a governmental review of existing regulations to remove outdated regulations that stifle job creation and make our economy less competitive and which seeks to find more affordable, less intrusive means to achieve the same results laid out in the regulations. The recommendations provided in this document, if acted upon by the DHS, would promote economic growth in general aviation and lessen the burdens imposed on pilots and individual aircraft owners without compromising the security of our Nation.

Sincerely,



Craig J. Spence
Vice President, Operations & International Affairs
Aircraft Owners and Pilots Association