

# **NBAA Testimony**

## Before TSA's Large Aircraft Security Program Public Hearing

January 6, 2009

Westchester County Airport, New York

Good morning. My name is Ed Bolen. I am the President and CEO of the National Business Aviation Association (NBAA). Our association represents 8,000 companies that have one key trait in common—they all depend on a general aviation aircraft to help their businesses survive and compete in a most challenging market environment.

In the United States, eighty-five percent of the U.S. companies that use a general aviation are small and mid-size businesses. These companies often operate to and from communities with little or no commercial airline service. They fly to multiple sites in a single day. And they often fly equipment that, for whatever reason, can't be transported on a commercial airliner. For these companies, business aviation is not an alternative to the airlines—it is an essential mode of transportation. Without their airplane, many of these companies would not exist.

As the TSA knows, NBAA and the other GA associations have been very aggressive promoting security initiatives since 9-11. When it comes to security, the general aviation community has led, not followed. We take a back seat to no one in our commitment to security, and our actions to date have demonstrated that fact.

Our motivation in commenting on the TSA proposal should be clearly understood. We want to work with the TSA to enhance general aviation security and harden general aviation against attack while simultaneously facilitating the operations that are essential to the survival of tens of thousands of U.S. businesses. The goals of enhancing security and facilitating mobility are not mutually exclusive; but achieving them will require a thoughtful, careful and tailored approach that, quite frankly, we do not see in the proposed rule.

Business aviation operations are a different animal than commercial aviation operations. That is why is why the Federal Aviation Administration treats them as separate and distinct in their safety regulations. By thoroughly understanding these differences and regulating accordingly, the FAA has been able to develop separate and unique safety regulations that have resulted in equivalent safety records. The same can be done with security.

How are business aviation operations different?

Well for one thing, the planes are smaller. Commercial airliners typically weigh about 160,000 pounds. The proposed rule targets business airplanes as small as 12,500 pounds. A 12,500-pound airplane is less than one-tenth the size of a Boeing 737. The entire cabin of a 12,500-pound airplane – from windshield to back bulkhead – could comfortably fit sideways into the planes used in the 9-11 attacks.

Make no mistake about it: The “large aircraft” security program will apply to some very small aircraft.

Another key difference is that the commercial airlines have to transport unknown passengers. They hold themselves out to the general public and transport anyone who purchases a ticket. By contrast, business aviation is used to transport only individuals who known are known to the company.

Comparing commercial operations to business aviation operations would be like comparing a city bus operation to the way a private company might use a passenger van for its internal operations. Knowing everything there is to know about who your passenger is changes everything. The proposed rule doesn't seem to recognize that fact.

It's a lack of understanding about differences like these that are at the heart of many of NBAA's concerns about the TSA's proposal. But given the time constraints, I will focus on just four.

A first concern is the application of the TSA's proposal to airplanes as small as 12,500 pounds.

As I said before, the TSA's "Large Aircraft Security Program" applies to very small planes owned by individuals and small companies. The weight threshold needs to be substantially raised.

A second major concern for NBAA and its Members is the list of prohibited items included in the TSA's plan.

The proposal contains a list of more than 80 "prohibited items," some of which may be routinely carried aboard business aircraft – everyday tools, for example – because they are central to NBAA Members' business needs.

For example, consider the case of Dave MacNeil, who owns MacNeil Automotive, which produces custom-designed and precision-fit floor liners and other protective interior equipment for cars and trucks. Dave uses sophisticated tools to capture data and reverse-engineer complex vehicle geometry. His sensitive measuring equipment will not fit in the overhead bin of an airliner, and it might be damaged if checked as baggage on a commercial flight or sent to a destination through an overnight shipper. According to Dave, moving the equipment is as sensitive as "handling a bag of potato chips," so he must carry the tools aboard his airplane.

Unfortunately, because the TSA includes among its prohibited items "tools longer than seven inches," his measuring equipment stands to be forbidden from the plane. Dave is greatly concerned that this proposal alone could literally put him out of business. And Dave is certainly not alone. Does it really make sense for a company sending a team of employees to fix a problem with one of their assembly lines not to be able to access to their tools in flight? Does it really make sense for a sporting goods manufacturer not to be able to access their products in flight as they try to prepare for a sales presentation?

As I mentioned earlier, proposals like this one are illustrative of a larger point: Because so much of the TSA's LASP doesn't take into account the real and significant ways that business aviation differs from the airlines, the plan can and will have unintended consequences if major changes aren't made.

A third major area of concern for NBAA is the requirement for carrying Federal Air Marshals.

The TSA's proposal would require owners of some airplanes to develop procedures to carry a federal air marshal when told to do so by the TSA, even though it is hard to imagine why a non-commercial operator would ever be required to transport a law enforcement officer. Can you imagine being told to carry a law enforcement officer when you're using that company van I mentioned earlier?

Another serious concern for NBAA is the third-party audit required by the proposal.

These audits of general aviation aircraft would be provided by independent consultants who would be paid for by our Member companies.

The specifics about the audits are not well articulated, leaving important questions yet to be answered about the scope and requirements for the proposed audits, the fees involved for conducting and complying with the audits, and the timeframe required for each audit. In spite of these questions, one thing we *do* know is that outsourcing security is contrary to our national philosophy for use of federal screeners, and in the development of Secure Flight.

In determining a final rule, it is important that we get this right. Overly broad or unnecessary regulations that do not take into account the unique attributes of business aviation will needlessly destroy companies and the jobs they create. We have seen, unfortunately, dramatic evidence of our fear.

The security regulations the TSA put in place at Washington Reagan National Airport have effectively eliminated 99 percent of the GA operations at that airport. Today, less than one percent of the companies that used to fly to and from Reagan can comply with the security regulations now in place.

We can appreciate that Reagan airport is unique, but it should also serve as a caution to all of us. Business aviation in the United States should not be effectively restricted to a relative handful of large corporations. Regulations that kill 99 percent of an industry facilitate, rather than thwart, terrorist objectives.

Business aviation is a vital link in our nation's transportation infrastructure and an important engine for our economy. It allows small companies to compete in a global marketplace. It provides economic development in small communities. And it is the source of over 1 million manufacturing and service jobs.

We believe that by working together, we can harden business aviation against attack without destroying it in the process. I call upon the TSA to immediately establish an Aviation Rulemaking Committee that will allow industry and the TSA to work together on regulations that can simultaneously enhance general aviation security and facilitate general aviation operations.

Thank you.

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