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RE Transportation Security Administration, 49 CFR 1562: "Maryland Three Airports: Enhanced Security Procedures for operations at certain airports in the Washington DC metropolitan Flight Restricted Zone; Interim Final Rule"

TSA holding private-sector economically accountable to perform TSA's responsibilities.....LAWFUL?

Rob,

I am David Wartofsky, owner of the Potomac Airfield, an aircraft owner, and a pilot approved by the United States Secret Service (USSS), as well other agencies, to operate in the innermost protected airspace around Washington DC. I hereby submit these comments in response to the Transportation Security Administration's (TSA's) proposed interim final rule, 49 CFR 1562, published in the Federal register on February 10th, 2005.

On cursory review, TSA's proposed interim final rule (?) might appear to only affect three small Maryland airports, (including my own); and only a handful of approved pilots already operating within this 15 miles of protected airspace surrounding the White House, the "Flight Restricted Zone" (FRZ).

However, TSA's proposed rule sets precedents for the emergency airspace security paradigm potentially affecting every major city across the United States. Utmost scrutiny is therefore required by the immense portion of the private sector potentially impacted.

I appreciate the efforts of the numerous agencies that have been grappling with the Executive Office decision to re-open this airspace to properly vetted pilots after '911.'

I wish therefore to applaud the Transportation Security Administrations' (TSA) willingness to step into this fray.

Although the objectives of airspace security are simple, its implementation is not so simple, apparently.

As with any regulatory action, I encourage caution: It is one thing to do the right thing; it is another to attempt to codify it. In our zeal for regulatory clarity, we should be careful not to preclude the flexibility and subtlety required to effectively address this complex and evolving matter. I do not believe this to be TSA's intent today, but poorly thought out measures often wreak significant economic damage, until their error becomes apparent.

Unleashing even a well-meaning regulatory bull into a china shop is rarely the best way to get the dishes clean.

Generally speaking, TSA's proposed regulations clarify certain matters in common-sense ways. However, in a strange twist, TSA also seeks to create for itself a 'ground security' role in an airspace security matter (?).

In other words, if only TSA had imposed similar 'ground-security' requirements, for the private sector to provide at all the airports in Hawaii, the attack on Pearl Harbor could never have happened.

Stranger yet, TSA also threatens economic blockade against the private sector, should the private sector fail in any way to subsidize and perform the responsibility TSA seeks to create for itself under these rules; by holding hostage the freedom of the many pilots already approved by the Administration.

This bizarre methodology unfairly attempts to burden the private sector to perform and subsidize a Federal responsibility, a responsibility that even TSA has demonstrated it is unwilling and unable to do; regardless as to whether or not it is even effective.

Is this consistent with Administration policy?

After three years of working rationally with the Executive Office, USSS, and US Customs, and yes, even the FAA, in a fashion, TSA's rules introduce new confusion and needless interference with the National Capital Area's most legitimate operators.

Any government agency, allowed to pursue its own narrow ends without limit or balance, always results in a government out of balance. Oversight from a higher office is therefore necessary.

The fundamental question defines the fundamental solution: Is the person in control of the aircraft a threat?

If the pilot is a threat, then only Federal authority can respond effectively.

If the pilot is not a threat, then only Federal authority can allow them to pass freely.

The Federal government should not be 'setting up' the private sector to perform Federal responsibilities.

By protecting freedom and commerce we mitigate security's impacts, making for a sustainable defense.

Why make it any more complicated?

So on with the show.

Thank You,

David Wartofsky, Potomac Airfield

Cc:

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OVERVIEW

On '911,' airline hijacking expanded beyond threatening airline passengers and valuable airline assets, to the hostile use of civil aircraft to attack persons and places on the ground. In response, aviation security's mission expanded to include defending against air attack from the sky, able to come from anywhere at anytime, to attack anything at will.

Ongoing government action continues to attempt to address the underlying concern that aircraft of many types could be used by a hostile to over-fly all other measures, to deliver a variety of unpleasant payloads to a variety of potential targets.

While large fixed wing aircraft require long runways for takeoff, helicopters, and many other small aircraft can readily takeoff from anywhere, anytime, any grass field or country being sufficient; all of which are beyond the possible scope of any ground surveillance. Because of this, 'airports' cannot offer effective points of control to the movement of small aircraft. This is not 'SSI,' it is obvious to anyone even marginally knowledgeable. Defense against potential air attack by small aircraft therefore requires entirely different strategies.

If one is to assume that it is necessary to defend against air-attack by small aircraft, then this requires air-defense tactics. Air defense tactics require the ability to shoot down the bad guy before they can attack. No more, no less. An effective defense comes neither cheaply nor without impact on the economy, so it must be applied rationally.

A successful air defense denies a hostile their ability to fly close enough to attack their target. Positioning to shoot down a hostile airborne intruder raises serious concerns about the potential for accidentally shooting down an innocent civilian. A successful strategic defense is therefore not shooting down the bad guy, but never actually having to open fire.

To avoid exhausting ourselves and our economy we must apply our limited resources and defenses rationally. To apply resources rationally requires that we must first prioritize what and where is most likely to be attacked, and then evaluate realistically the costs of effectively defending it.

Although persons and places most familiar to us individually are what we naturally want most to defend, to rationally apply our resources we must look beyond our personal concerns at potential targets through the eyes of those we are defending against. What will they attack and why? Once we understand their objectives, we are then able to design and prioritize our defenses accordingly.

The well known enemy has repeatedly, openly and bluntly expressed their objective to attack the White House, for its symbolic value to all sides. Knowing the White House and what it stand for is perhaps their highest priority target, tells us what therefore must be our highest priority target to defend.

So how do we do defend the White House against air attack, as well as what it stands for, effectively?

Only the threat of destruction gives pause to a potential airborne attacker. To give an attacker pause we must make obvious that any attempt to approach their target by air would be perilous. Making approach by air perilous denies the attacker of their ability to achieve their objective. We cannot guarantee their destruction, because that is impossible to guarantee, we need only make it perilous.

Correctly understanding the goals of strategic air defense alleviates the risk of exhausting ourselves from otherwise attempting to pursue an un-attainable perfect defense. The primary objective of a strategic air defense is to make air attack more perilous than alternative forms of attack. As soon as we have made air attack more perilous than its alternatives, such as by truck, then we have achieved our air-defense objectives.

Our ability to sustain our defense is equally critical. We leave ourselves open to attack if our attacker need only wait until we have exhausted ourselves and stood down our defenses. It is therefore also essential that we make our defense sustainable.

Imposing effective air defense imposes severe economic impacts on the private sector. (I ought to know). To make our defense politically and economically sustainable we must therefore mitigate its impacts to our own freedom and commerce.

The requirement to create a sustainable defense, which requires mitigation that restores freedom to anyone who is not a threat, is perhaps the most easily overlooked defense requirement.

Combining effectively and credibly threatening the destruction of any potential air attacker before they can reach their target, with providing means by which anyone that is not a threat to get on with their lives without interference, allows us to achieve an effective strategic defense that is also sustainable.

So how do we achieve both of these seemingly contrary objectives?

As with most things, correctly understanding the problem points clearly to its inevitable solution.

THE PROBLEM - From the perspective of those that can actually do anything to defend against any air attack, all civil aircraft and pilots appear as indistinguishable, equally threatening radar 'blips,' all flying too close to the area being protected. The trick therefore becomes how to tell 'Friend' from 'Foe.'

ASKING THE RIGHT QUESTION - When all indistinguishable pilots and civil aircraft appear equally 'Friendly,' or equally threatening, how do we identify Foe?

THE ANSWER: Since Foe offers no distinguishing features, we give special features to known Friends that only they and our defenders will recognize. Anyone lacking these special features then stands out clearly as 'unidentified.'

We pre-sort 'Friend' from 'Foe' by pre-approving anyone having legitimate need to access defended airspace through a special vetting process. Once we have 'pre-sorted' our Friends to a reasonable level of confidence, we then give these known friends easy-to-use special procedural means to verify and convey their identity and in-cockpit control to those who would otherwise shoot them down.

Air defense tactics 101, very simple.

By effectively defending high-priority airspace by threat of destruction, and then re-opening it to anyone who is reliably deemed not a threat, we enhance security while defending freedom. That's not a bad day's work.

NEXT STEPS

The special procedures that mitigate the impacts of air defense use 'sophisticated air-combat 'identify friend or foe' (IFF) techniques for voluntarily participating civilian pilots.' There are few precedents within civilian flight operations for any of this. To a great extent, this lack of precedent has been a source of great confusion for so many involved.

For three years, a variety of civilian agencies have been flailing about in pursuit of continually 'enhancing' security, by 'enhancing' whatever limited measures they may know, while remaining incapable of measuring their progress, or interference, with objectives that remain beyond their understanding: For example, immediately after '911,' the FAA, a flight safety agency, attempted to 'enhance' security by using safety regulations (Part 135 vs 91) to parse types of operations; with embarrassing results. Anonymous 'Renters' of commercial 'for-hire' aircraft were free to go, while senior military personnel were deprived of the use of their own aircraft, even for high-priority government business. Similarly, TSA, an agency created to address 'airport security,' has similarly tried to initially apply only what it knows. No harm done, yet.

The solution to this is like a jigsaw puzzle, each agency only able to see the limits of their own piece. Without overview, the image makes no sense, and the individual pieces remain in turmoil trying to understand their limited roles.

Without definable goals, these agencies can only flail about in endless pursuit of the undefined, achieving little along the way. Their unguided measures can only incrementally undermine freedom; in the vague two-dimensional hope that eventually ever-mounting regulatory and administrative interference with enough people may someday be enough to capture a three dimensional issue.

So, to review:

- Air traffic controllers cannot control or defend anything; they can only support target detection and sorting techniques. A hostile pilot need not "Turn to a heading of 0-3-0" unless they are inclined to do so. A hostile will more precisely 'Turn to a heading of 0-3-0," to imply cooperation, until the last minute.
- Special procedures for sorting Friend from Foe are built on special air-traffic procedures, BUT, only NORAD and the DOD can actually shoot things down (...Aren't we all happy that is not the FAA's role?)
- Regulatory agencies cannot control hostile airborne movements; they can only regulate those who voluntarily cooperate, or tolerate regulation.
- Administrative agencies cannot 'approve' pilots, especially when threat criteria are beyond their reach.
- Only agencies with access to valid threat information can evaluate who to approve.

- No agency wants to be before Congress, explaining how "...they let a bad guy get through their net."
- To provide an effective net, approving pilots requires an odd group of security and intelligence agencies.

PRE-SORTING TARGETS / PILOTS - The evaluation of whether any pilot is a threat is ideally done through an appropriate approval process, involving one or more appropriate government agencies, having ties to overseas intelligence. Pulling that together requires crossing some interesting jurisdictional lines, which perhaps only the private sector has the discretion to do.

MY TWO CENTS: Personally, I believe that because this fundamentally is a matter of Presidential Protection, the United States Secret Service (USSS), and/or its executive agent in airspace matters US Customs, having relevant ties to foreign as well as domestic intelligence, should be the lead agencies directly supporting these efforts for pilots in the National Capital Area (NCA). These are the agencies having the greatest responsibility and concern; the greatest access to the most relevant information, the greatest relevant experience in both vetting and special airspace operations, and the greatest need to know who exactly is flying in proximity to the NCA.

By stepping up to the task, these agencies could permit other agencies to stand aside less effective, more intrusive attempts to do what only these agencies can best perform. I KNOW they can do this. TSA merely need assign jurisdiction over this matter, although it is a jurisdiction that perhaps even TSA may not even have to coordinate; so perhaps it remains to the private-sector to call the ball:

Therefore, for the record, as an open offer, as the arbitrary and capricious owner of the Potomac Airfield, I hereby voluntarily offer jurisdiction, by mutual agreement, over the approval process and special procedures for pilots applying for clearance through Potomac Airfield, to the USSS and/or its executive agent, US Customs. To Potomac Airfield's particular customers in the National Capital Area, for them this is merely another security clearance.

But who am I?

PROBLEMS WITH PROPOSED TSA REGULATION 1562

PROBLEM #1

TSA is perpetuating the myth that ground-security can somehow control small aircraft movements

The proposed regulation continues to perpetuate the myth that by somehow enhancing enough two-dimensional measures, government will somehow, someday, address a three-dimensional threat. The fact remains that small aircraft do need any airport to takeoff, any grass field or country lane will do. This is not 'SSI,' it is merely obvious to anyone having any familiarity with small aircraft flight operations.

Since the use of any airport is entirely optional, it should therefore be obvious that no airport can offer an effective point of control to the movement of small aircraft. A hostile pilot inbound to their target may be inclined to pleasantly dip their wings in greeting as they over-fly whatever armies of neatly dressed ground personnel may be standing around, but that's about it.

TSA's continuing to perpetuate this myth falsely implies to the public that government can somehow 'control' the movement of hostile bicycles by imposing ever harsher restrictions over a few bicycle racks. While the racks are visible and easily identifiable, perhaps offering easy targets for regulators to regulate, to the hostile bicyclist such racks are entirely irrelevant. With this insight, posting guards standing around a few bicycle racks appears silly.

While assuaging public concern is an essential part of these measures, so is maintaining credibility.

Suggestion #1A - Understand what has already been achieved in the FRZ
Within the innermost 15 miles of protected airspace, aka the 'Circle of Doom,' the FRZ, the security objectives of verifying pilot identity and in-cockpit control have already addressed through special procedures.

 Pilot IDENTITY is already verified by special procedure. 'Non-fatal' access to airspace is controlled by approved pilots' ability to generate special airspace clearances; that's pretty darn tight security.

TSA suggesting that 'someone standing around' to verify that pilots are on (the same) list required for airspace clearance is redundant, and only imposes ineffective costly burdens on the private sector, interfering with legitimate freedom and commerce, accomplishing nothing.

 Pilot IN-COCKPIT CONTROL is also already verified by special procedure.

Why would TSA want to interfere with legitimate operations to repeat what is already addressed?

Stop tampering with the solution to the problem.

Suggestion #1B - The FRZ is not the problem

The problem remains that even should government make its worries go away by closing every identifiable 'airport' for hundreds of miles radius, small aircraft would still remain able to takeoff from anywhere inside the 'Circle of Doom,' regardless of the distance to the outer airspace boundary.

The Circle Of Doom is merely the area within which all 'targets of interest' are immediately sorted into 'known-friend' or 'presumed-foe,' with various escalating responses, not a regulator's sandbox within which to keep stirring the same sand.

Move need-to-know matters out of the public domain, then they become simple for EVERYONE

Suggestion 1C: Share 'special procedures' with all those that have need to know

The special procedures given to pre-approved pilots could and should be made available to all pilots similarly approved to operate in any special airspace requiring security. The pieces already exist in crude form; they need only be grasped by those that keep fumbling with them.

PROBLEM #2

Through unwitting interference, TSA undermining economic objectives of Executive Decisions

The economic impacts of airspace security are mitigated by restoring the free movement of approved pilots. TSA would impose on the private sector 'ground security' interference into legitimate approved operators, undermining the utility of these airports and this airspace for its most legitimate operators. This contradicts the Executive Office objectives of re-opening this airspace to properly vetted pilots.

Suggestion #2A Assuage public concern:

IF TSA feels compelled to further assuage the general public's concern about these 'close-in' airports, then by all means posture a random and credible TSA security presence at these airfields. Bring guns and coffee.

A random TSA presence should not 'inspect' or 'interfere' with legitimate operations, but to add a publicly visible, political element, nothing more.

Such a move would be welcome at Potomac, particularly bringing fresh coffee.

PROBLEM #3

TSA holding hostage the freedom of approved pilots - threatening economic blockade of the private sector

These regulations seek to 'hold accountable' the private sector to subsidize and perform the 'ground security' task TSA seeks to create for itself under these rules, relevant or not; a task TSA has thus far repeatedly refused or been unwilling to perform, except for brief moments; even then only to a limited extent.

Perhaps because these measures are too costly and too absurd for even TSA to perform?

As proposed by these regulations, should the private sector be unable or unwilling to perform the role TSA seeks to create for itself, the freedom of approved pilots will be held hostage, TSA imposing further economic blockade over the airports by FAA notam.

FDC 5/1254 ZDC A) NO PERSON MAY OPERATE AN AIRCRAFT TO OR FROM THE ABOVE INDICATED AIRPORTS UNLESS THE AIRPORT OPERATORS SECURITY PROCEDURES ARE APPROVED BY TSA AND MEET OR EXCEED THE PROVISIONS OF 49 CFR PART 1562.3.

Pretty sneaky, eh? Is this consistent with Administration objectives?

Suggestion #3: Valid objectives will be supported, pointless coercion will only prove embarrassing.

PROBLEM #4

'Procedural Approval' unable to respond to progress

TSA's implication that it needs economic leverage over these airports to "rapidly adapt to changing conditions" falls upon incredulous ears. Perhaps due to the complexity of the issues, in three years, neither the TSA nor FAA have

demonstrated any ability to amend, adopt, change, or approve anything having to do with the MD3, timely or otherwise.

In fact, it was in part due to the inability to act of various agencies that Presidential Decision Directive 62 gave USSS, an agency closer to the Executive Office, emergency oversight in national security special events (NSSE) and in the national capital area (NCA).

Government agencies will always remain intrinsically reluctant to make decisions, partly due to their well-founded fear of becoming responsible for the unintended consequences of making poor decisions. Government therefore always moves slowly, if at all; which is generally a good thing. However, when bureaucratic cover exists for indecision, or ignorance, bureaucracy is free to become totally inert.

In matters for which no precedents exist, there are no precedents to provide bureaucratic cover; thus government's usual path for approving anything does not exist. Thus government agencies, for lack of precedents, become deer caught in the headlights of progress.

Often, therefore, sensible steps must just be taken by those willing to take them.

Suggestion #4 - Support evolving solutions, but do not stand in the way

Decision making must not be impeded by the inability of one or many inter-locking agency's inability to respond, nor for lack of clear jurisdiction, nor for lack of clear guidance, which may never occur, nor even exist. It is only important to know that initiatives being taken have been coordinated where appropriate, at the highest appropriate policy and operating levels, and that legitimate concerns have been expressed, and reasonably addressed, if any.

PROBLEM #5

Is TSA just trying setting up the private-sector as its 'fall guy?'

In its current form, inter-locking TSA regulations and FAA notams continue the bureaucratic tradition of government 'setting up' the private sector to be a government agency's 'fall-guy,' for any failure to perform measures the government agency itself is reluctant, unwilling, or unable to do.

In this case, TSA and FAA seem to have conspired to stretch an unrelated airport safety standards enforcement paradigm (FAA Part 139 airport safety certificate), to economically threaten the private sector to perform the task TSA seeks to create for itself, a task that in fact TSA is unwilling to do.

Who came up with that one?

Is this consistent with Administration policy? I don't think so.

Suggestion #5 - Stop threatening the private sector with economic sanctions

I believe we will all do the right thing, once it makes sense; even the TSA.

PROBLEM #6

FAA's expanding interference with legitimate commerce, without rulemaking, review, or process

The Federal Aviation Administration (FAA) continues to interfere with legitimate commerce, through its well-meaning, yet interminable use of safety 'notices to airmen' (notams); relentlessly and unwittingly attempting to micro-manage the use of protected airspace by its most legitimate users.

This 'ongoing death march' of overly constraining notams contradicts the objectives of prior Executive Office decision to open this airspace to properly vetted pilots. That's spelled ...O-P-E-N.

Of even greater concern, the ongoing use of 'safety notices' has evolved into a new form of rulemaking and economic taking, without any process, review, or analysis.

Suggestion #6A - Where defended airspace becomes necessary, only one simple notam is required:

- a) Designate Protected Airspace Rationally - Define restricted airspace by references that are easily navigable by pilots flying aircraft, not for lawyers looking at maps in their office. This will not only reduce the number of innocent incursions into chaotically designated airspace, but also reduce the number of times the White house gets emptied, and,
- b) Enhance Deterrence - Emphasize the effective deterrent against all unauthorized movements by threat of destruction, since potential destruction is the only detail that is of interest to the potential attacker, and,
- c) Open a welcoming door - Provide a point or points of contact where to direct questions and where to apply for clearance.

Suggestion 6B - Closer scrutiny of "Rulemaking by Notam" by without process by greater oversight

As the FAA's many well-meaning, albeit confusing safety notices continue to incrementally erode various portions of the private-sector economy, someone higher up must start reeling in this inappropriate regulatory enthusiasm, before its economic consequences to the private sector become irrecoverable.

SPECIFIC LANGUAGE OF "INTERIM FINAL" REGULATION 49 CFR 1562

The following section offers a paragraph by paragraph review of potentially problematic language, toward the mutual goal of mutually satisfactory regulations and relations. The comments follow the text of the 'interim final rule.'

"Airport Operator Requirements"

"The interim final rule requires...

PROBLEM #7

"...to permit officials authorized by TSA to inspect the airport, the airport's TSA approved security procedures and any other documents under the rule"

Opening the private sector to unreasonable search

The Potomac Airfield is open to the public, and as such the TSA, as well as a litany of other government agencies, have been, and remain always welcome. They are some of our best customers!

However, at what time in the history of the United States has any government agency entitled itself the right to come onto private property in such a brusque manner? Doesn't Amendment IV of the Constitution say something about this?

Amendment IV was not intended to deny legitimate access for good reason, but to deny the abuse of power.

Has Amendment IV been cancelled?

Suggestion #7 - Support the private sector, the Gestapo didn't last very long

As noted earlier, IF a TSA security presence at the airfield during occasional random times would assuage public concern, (if any), then by all means add another 'random' element to the equation (I daresay). TSA presence should have nothing to do with 'inspection' or 'compliance' or 'enforcement' over the legitimate, approved operators or operations, but merely to offer support, if necessary.

I will continue to share with TSA and other agencies that which they have need to know; there is no need to write a regulation permitting TSA to come barging through the door. That is uncalled for.

PROBLEM #8

TSA Threatens further economic blockade

Any 'failure to comply' by the airport, or any one of its tenants, (whom the airport can only advise but not control), or anyone else cleared by TSA, who might land and fail to follow rules (some of which they are not permitted to know), would provide TSA justification to blockade all further economic trade from these airfields.

Through TSA and FAA's administratively exercised economic blockade, at whim, the economic value of my 'property' could be arbitrarily taken (again), by 'removal' of its airspace, as the result of actions by those beyond my knowledge or control, without any due process.

I believe that Amendment V of the Constitution goes over this one.

Could this really happen? In point of fact, TSA temporarily did 'close' WashingtonExec/Hyde Field for several months, in part, for Hyde Field's failure to follow a new TSA requirement that was impossible to follow. TSA had imposed a new requirement to 'approve' airport personnel through a TSA process that was dysfunctional, and then immediately found Hyde Field at fault for not following the procedure, even though it was TSA that made it dysfunctional.

It was my American Express that bailed out the TSA, as well as many pilots at the other two airfields.

That event, among others, has left Hyde Field's management in a state of bureaucratic terror, simultaneously fearing and relishing their role of paid-enforcer/informant over what few actual tenants remain.

An example of unintended consequences?

Perhaps Amendment V has also been cancelled?

WARNING - Any further attempt to bureaucratically deny legitimate access to the publicly owned airspace over these airports (adding my voluntarily, arbitrary and capricious requirement that they must also be properly vetted by responsible agencies), will unquestionably and unwaveringly be treated as a taking of these airport's economic value without due process.

C'mon guys and gals, we are on the same team. Stop it.

Speaking on behalf of the interests of these three small-airport owners, the remaining small businesses struggling to survive at them, and perhaps also speaking in the interest of the people of the United States;

...After very patiently tolerating and supporting the initial six months that was required to overcome initial bureaucratic inertia after '911', by a variety of government agencies, unable to do anything, followed by more than three years of well-meaning bureaucratic fumbling and confusion thereafter, which has done little except to interfere and threaten legitimate commerce and freedom in the National Capital Area, with little to no gain in real security, to now find the latest iteration of regulatory agencies and bureaucrats waving their swords about their heads, threatening further economic blockade, is simply stunningly bad form.

Need I say more?

Suggestion #8 - Ask yourselves realistically, where does defense against air attack come from?

The only security against air attack comes from controlling airspace access by threat of destruction. As dramatic as this may seem, it becomes sustainable with exception for approved pilots, not by the pointless and ultimately embarrassing measure of people standing around a few irrelevant, entirely optional places on the ground, from which a hostile small aircraft MIGHT takeoff.

Do not threaten the private sector further with further economic sanctions.

PROBLEM #9

"...the airport operator to maintain at the airport a copy of each FAA NOTAM and rule that affects security procedures at the Maryland Three Airports"

Pointless makework - Trying again to 'force' the private sector to do government's job

FAA notams are like ticker-tape, they change almost continuously. I appreciate the desire to encourage the widest possible circulation of FAA notams to the aviation community, through all possible means, but attempting to impose 'requirements' on the private sector to diligently copy readily available public notices, which are available from hundreds of other public government sources, is simply absurd.

Or is this just an attempt merely to plant something to violate the airports over?

Suggestion #9 - Perhaps a hyperlink to 'FAA.GOV/notams' on the airfield website...

PROBLEM #10

"...the airport operator to appoint an employee as the airport security coordinator"

Wrong term

Potomac Airfield has no 'employees' to appoint, we have tenants. Our tenants have contractors. We also have a few contractors, from time to time. I do believe TSA' intent is not to require forced labor without compensation, nor to provide a fall guy (or fall-gal), (well...), but simply for TSA to have a reliable and responsible point of contact for security matters at the airport, which is fine.

I will be delighted to comply with the objective of this language, but I will not permit poorly thought out language to compel me to 'create' an employee, merely to provide a head for someone else to chop off.

Suggestion #10 - TSA knows who is in charge, at least at Potomac Airfield. TSA should require the airport OWNER designate a specific ASC who assumes responsibility for the affairs of the field.

LANGUAGE SPECIALLY NOTED

"...TSA may withdraw its approval of the airport security coordinator as a result of...not guilty by reason of insanity"

This one could be really important!

PROBLEM #11

"To be approved by TSA, an airport's security procedures must meet the minimum requirements set forth in the rule...The minimum requirements are as follows:"

"...requires an airport's security procedures to contain a current record of the individuals and aircraft authorized to operate to or from the airport."

Who keeps what records and for what purpose?

Obviously, as a private business owner, especially of an airport owner next to DC, there are numerous legitimate business and security reasons for keeping track of persons and aircraft that I know operate at Potomac Airfield.

Furthermore, should a suspicious crop-duster sneak under the radar net, I will certainly take appropriate action.

However, TSA is approving pilots and aircraft at the other two airports, and by waiver, for operation through the airspace, about which I know little or nothing. This again points to AIRSPACE ACCESS as the only effective point of control. Therefore, whose task is it to keep track of approved pilots?

Am I to be held accountable to retain records of persons and aircraft that I do not and cannot know?

I do not believe this was TSA intention, yet this inadvertent language brings up two more fundamental issues:

1. PRIVACY - As written, within the 'security plan' I am 'required' by TSA to violate the privacy of others. Does TSA mandate that I violate existing privacy laws? Why is TSA seeking to go around these laws? Which set of laws am I supposed to violate, in order to comply with the other?

Approved pilots are vetted by government agencies, and given airspace clearances by government agencies. Why does TSA seek to require the private sector to retain further copies of these persons personal information?

Perhaps government is not allowed to violate privacy; nor is it allowed to force the private sector to violate the privacy of others, either.

I support these efforts voluntarily for the right reason, often with glee; so please do not threaten me for assisting with the performance of government's responsibility.

2. WHO REALLY CONTROLS AIRSPACE ACCESS? - Security comes from controlling access to airspace by threat of destruction, with exception for approved pilots, not by a few people standing around at a few irrelevant places on the ground. (Oh, I've said that already. Maybe I'll even say it a few more times!).

It should therefore be self-evident that neither airfields, nor anything else on the ground, can 'control airspace access.' Two dimensions will never be able to grasp the third dimension.

Legitimate approved pilots are granted access to this protected airspace by TSA and other agencies, by providing approved pilots special procedures that allow them to by-pass airborne destruction, i.e. in order that they not get shot down. It is the airspace clearance that permits, or denies airspace access, not airports.

Suggestion #11A - Realize WHO and WHAT actually controls airspace access

Do not setup to make and 'hold accountable' the private sector to perform what only DOD can perform.

Suggestion #11B - Understand the clear difference between 'unfamiliar' and 'suspicious'

As Potomac Airfield is currently surrounded by a 'shoot-down' zone for all unauthorized airborne movements, with radar and all sorts of other cool stuff watching everything at all times, it would seem reasonable to assume that any aircraft, or pilot, arriving at Potomac Airfield by air, that has not been shot down, chased by a US Customs Blackhawk, followed by NORAD, has not left an F16 loitering overhead, and where the pilot has not been handcuffed by USSS, has probably been cleared into the airspace and is probably legitimate.

Beyond this assumption, I will continue to apply common sense; I will look to government to do the rest!

PROBLEM #12

"..if a pilot who is not vetted by TSA is forced to land...the security procedure...would allow the pilot to takeoff from the airport after he or she had been vetted by TSA."

Procedure is redundant and needlessly cumbersome

I appreciate TSA's desire to provide guidance for the airports when this occasionally happens. However, any pilot and aircraft 'forced to land' at Potomac Airfield is brought here and already thoroughly interrogated by US Customs and the United States Secret Service, before being released. It would therefore seem reasonable to assume that these agencies would not walk away from a person of concern. Therefore, once verifying these agencies have 'released' the pilot, it is reasonable to assume that the released pilot must not be a threat, and it is safe to let them go (as soon as they stop quivering from fear), without first making them also get lost in the TSA's own vetting process.

Should USSS release a terrorist for airborne departure from Potomac, I'll assume they would mention it to me.

Suggestion #12 - Keep it simple

After the ASC confirms that US Customs and USSS have already thoroughly eyeballed the errant pilot and their aircraft, and made their determination, the ASC simply coordinates the (harmless, terrified) pilot and their aircraft's departure with the NCRCC, assisting with tracking of the harmless and terrified departing aircraft outbound. Simple.

PROBLEM #13

"TSA notes that it may need to be able to quickly amend a particular airport's security procedures in response to...threat information...non-compliance with the security procedures." "...provides that airport security procedures remain in effect unless TSA determines that operations...have not been conducted in accordance with approved security procedures."

Who is in charge of what and why?

Whew, this is messy.

First, I have yet to see the TSA, or the FAA, demonstrate any ability to amend anything this complex, timely or otherwise. In any real (or imagined) emergency, TSA (or others) have always contacted me directly (or I them), and we have reasonably addressed the matter like grown ups, without waiting for amended procedures to be 'approved.'

Second, the airport security plan is not written by TSA, it is written and owned by the airport. If it were written by TSA then it would become TSA's document, and subject to all sorts of Federal oversight, rulemaking, review and funding requirements. Now that would be really cumbersome.

Imagine a purely hypothetical example: TSA could never 'approve' (nor deny) my sharing of our pilot information with CIA, USSS, or other agencies, yet there may be good reason to do so. In this purely hypothetical example, I would therefore 'be acting without TSA approval.' Would my committing this heinous crime (with full disclosure to applicants) thereby justify closing the airspace and the airport for 'non-compliance,' only because TSA will forever remain unable approve such actions? Of course not.

Let us mutually recognize as adults, once and for all, that there will always be measures in this matter that require initiatives beyond the bounds or jurisdiction of 'TSA' to approve, and that it is more important to share these procedures with TSA, developed in consultation with the offices and agencies TSA is trying to appease, (AHEM), than to fear being 'violated' by TSA for explaining or performing them.

Third, as written, if a pilot cleared by TSA through another process, about who I know nothing until they show up one day at the airfield, then 'operates not in accordance with approved security procedures,' Potomac Airfield could be found 'violated' by TSA for the acts of others beyond its knowledge or control, and thereby threatened with closure by notam.

Suggestion #13 - Regulate where it is beneficial for public guidance and benefit, not just 'because'

While I am currently confident that TSA personnel would not act so foolishly, I cannot guarantee who might be next set of personnel in line, nor how they might interpret what they think they see. Keep it simple. GUIDANCE.

AIRPORT SECURITY PROCEDURES

PROBLEM # 14

An idiot still going in circles

The TSA appears determined to threaten these airports with renewed threats of economic blockade, should the airports fail to subsidize and fulfill the task TSA seeks for itself; something the TSA itself has repeatedly demonstrated it is unwilling and unable to do, except for brief moments.

Why?

TSA's own threat, to deny airspace clearances to approved legitimate pilots, again makes self-evident that it is the ability to generate airspace clearances that controls aircraft movement, not airports.

As TSA was informed, frustrated by the inability of TSA and FAA to coordinate certain simple yet essential XXXXXXXX, (even when served on a silver platter at least TWICE), XXXXXXXX..

TSA should not be questioning under what authority XXXX occurred; but trying to figure out how to implement XXXXXX..

Suggestion #14 - Share the wealth of special knowledge with ALL those that have need to know

Perhaps instead of harassing our most trusted agents, we should be spending our efforts enhancing the pilot vetting and briefing processes to include XXXX.

SUMMARY - WHAT WE SHOULD BE DOING

The only real defense against an air attack, which can come from anywhere at anytime, is an effective strategic air-defense, which makes air attack more perilous than attack by alternative means, such as by truck. Once the objective has been achieved, stop tampering with the solution, move onto real problems.

There is little point in adding more locks to the same doors, when the windows to either side are wide open.

Security against unauthorized small aircraft movements can only come from controlling access to sensitive airspace by threat of destruction.

Making security sustainable requires mitigating its economic impacts, by exception, for pre-approved pilots, by restoring the free movement that real security measures otherwise take away.

Approved pilots are given special procedures XXXXXXXX

Controlling airspace access has nothing at all to do with a few little airports, nor with anyone standing around at these few places, nor any others, at anytime, anywhere.

It is time to start looking beyond two-dimensional thinking to finally understand an existing three-dimensional solution. Endless two-dimensional efforts are pointless and will only ultimately prove embarrassing.

Commerce, freedom, and a sustainable defense are protected by re-opening otherwise 'closed' airspace to approved pilots who are reliably deemed not a threat.

TSA's role is to be continuing to advance its good work to date, coordinating and supporting the vetting and debriefing of pilots having legitimate personal, business, or governmental reasons to access protected airspace; a task with which these three little airports may assist.

Do not punish or threaten these airports for assisting; do not make adversaries out of your friends.

TSA's role is to continue working together with the private sector and other agencies to close sensitive strategic airspace to anyone who might be a threat, and then fully opening it to the right folks.

We are all on the same side, let's keep it that way.

As always, I look forward to continue assisting TSA to eventually get this all straight.

Thank You,

David Wartofsky - Potomac Airfield