I write in respect of the Interim Final Rule described in TSA Docket TSA-2004-19147. I am a Certified Flight Instructor. Thank you for taking the time to consider these comments.

The implementation of this rule without prior public notice, due to its perceived urgency, has caught the general aviation community off-guard and completely flat-footed. The current plan to invoke parts of this rule by Oct. 1, 2004, and the rest of it by Oct. 20, 2004, does not leave enough time for the matter to be properly assessed even by organizations – such as the Aircraft Owners & Pilots Association – whose job it is to do just that. Expecting that the general aviation community and its flight instructors will be able to properly implement this rule in that time frame strikes me as very optimistic indeed.

TSA indicates in its request for comments that it has been speaking to "interested stakeholders" in the general aviation community since Feb. 13, 2003, when candidates for flight training began having to be screened by DOJ pursuant to the final rule issued under Section 113 of the Aviation Transportation and Security Act (49 U.S.C. 49339). Accordingly, TSA indicates that it has determined that issuance of this interim final rule "is not likely to have significant adverse impacts on the regulated community." That is fundamentally wrong. I, as well as several of my flight instructor friends, intend to turn in our flight instructor certificates to the FAA in Oklahoma City if this rule is implemented as presently written. I urge you to look into what goes into acquiring a flight instructor certificate as an indication of the profundity of that statement. As much as we love to contribute to the aviation community and improve its safety (and believe me we don't teach for the money – hardly anyone makes their living teaching flying, and those who do don't make a good one), we would be relinquishing our certificates not to make a statement of our level of disagreement with the implementation of this rule but because we do not believe that 80,000 flight instructors in this nation should be deputized against their will as TSA agents, and we are not prepared to accept a completely unknown level of personal responsibility for doing TSA's job, however unwillingly.

TSA indicates that it believes that both flight training candidates and flight schools, which it defines to include individual flight instructors, will be able to comply with the IFR fairly easily. That is also not the case. It occurs to me that TSA is perhaps not aware what a considerable burden the requirements in this rule will place on the flight instructor community, a significant portion of which operates on a freelance basis. These instructors, among whom I count myself, will have to procure or gain access to a camera, a photocopier, a fax machine and a computer with internet access just to have the tools necessary to be compliant with this rule. Please see my remarks above about the level of income afforded these individuals. In addition, the whole process will have an immense chilling effect on flight training prospects, who will quickly come to learn that in order to avail themselves of the dream of flight training, they need to get comfortable with the notion of being deemed a suspected criminal who is obligated to prove his or her innocence before getting underway with their flight instructor.

TSA has indicated that it will be willing to make changes to this interim final rule if public comments indicate that transportation security can be addressed in a less burdensome but equally effective manner. I would suggest that the existing requirements for vetting students prior to the commencement of flight training, together with the vetting of immigrants that is carried out by USCIS, is, when combined with the efforts of the now even more alert aviation community, already accomplishing the goals that this rule seeks to attain.

Indeed, the 9/11 terrorists likely could have been thwarted in their plans if only the information pertaining to their flight training which was already available and being discussed at the time had been acted upon. Since then, the need for appropriate levels of aviation security has been dramatically reinforced in the minds of both the aviation community and law enforcement – as was recently proven when some ill-advised journalists set out to prove how "easy" it would be to hijack a helicopter. The struggling general aviation community doesn't need another level of bureaucracy to finish it off – what it needs is assistance with getting the word out so that people can use their common sense in preventing another aircraft-based attack.

In addition to being unduly onerous to implement, the current rule provides fertile ground for confusion. I have spoken to several instructors who believe that recurrency training such as the FAA-mandated biennial flight review or an instrument proficiency check are not subject to the need to submit the candidate's fingerprints or pay the $130 fee applicable to personnel training for a new rating. However, my reading of your definition of "recurrent training" seems to indicate that this exemption applies only to employees of certificated aircraft operators. Clearly there are going to be problems in the application of this rule when commonly used aviation terms (such as "recurrent training") are given restricted meanings in this rulemaking. Moreover, what level of responsibility, either civil or criminal, does the errant flight instructor bear for acting in good faith under the rule but messing it up?

The implementation of this rule will have a negative effect on flight safety in this country, while achieving little if any results in terms of making the nation more secure. Most conscientious pilots engage in "recurrent" flight training with a flight instructor more often than is required by the Federal Aviation Regulations (which for the vast majority of pilots involves a one-hour flight only once every two years). The effect of this rule will be to vastly reduce the amount of flight training which such pilots undertake voluntarily. Instrument rated pilots, for example, are required to meet established experience requirements every six months. One way to "reset" the clock and be safe as well as legal is to take an Instrument Proficiency Check with an instrument flight instructor. Legally, however, an instrument pilot can achieve the same result by simply flying a set number of instrument approaches with a fellow pilot in the right seat who is not an instructor, even though the right seater has no skills aimed at assisting the pilot in knocking off rust or discouraging bad habits. Because of the upcoming paperwork requirements relating to taking such recurrent training from a qualified instructor, however, more people are going to turn to satisfying the experience legalities in this less effective manner, and the end result is going to be an increase in the number of accidents that we see.

I believe there are also constitutionality issues regarding the manner in which the rule seeks to discriminate in its treatment of permanent residents of the US, to whom the overwhelming majority of civil rights afforded a US citizen have been granted as a matter of law for decades. Moreover, there can hardly be a class of people on the planet who have been more vetted by the US government than applicants for permanent resident status. Accordingly, the requirement that permanent residents be treated under this rule in the same manner as residents of foreign countries, and not exempted in the manner that US citizens are, is needless, duplicative, unnecessarily costly and burdensome to the applicant and completely ineffective viz. the stated objective of making the nation more secure.

Finally, if this rule is implemented as written, there will be unanswered questions that will need to be addressed pertaining to issues of the prospective trainee's right to privacy. At this point, there are no standards set out as to what the obligations are upon a flight school or flight instructor to carefully and properly safeguard, for five years, the confidential personal data that he or she will be required to obtain from each student.

This long after 9/11, few people can be confused about TSA's goal of making the country more secure. That said, if the intent of this rule is to prevent another 9/11 using transport category aircraft, I would respectfully submit that there are measures in place already that are far more effective at deterring that kind of crime; and I would also respectfully suggest that if the effort is aimed at preventing a light aircraft from being similarly used, TSA needs to become more acquainted with how little damage such an aircraft can do, weighing as they typically do about the same amount as a Honda Civic. For these reasons, I request that the DOT consider revising or outright rejecting this IFR, since it is clear that it will have a negligible effect on making the nation safer, while it is equally clear that it will needlessly and substantially impact in a negative way the general aviation industry that has already endured more than its share of the burden arising from the events of 9/11. You will find that the general aviation community will be very willing to assist you, not only eagerly but effectively, if you will simply seek their input. I personally stand ready to meet with you and your representatives, as well as members of the FAA or for that matter Congress, anywhere in the country, in order to share the little bit of insight that I can bring to the picture.

Sincerely,

Chris Wilcox, ATP-MEL, CFII