

AVIATION AND AEROSPACE

TSA Seeking Air Cargo Industry Comment on Mitigating Costs for Commercial Cargo Screening

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On Friday, April 10, 2020, the Transportation Security Administration (TSA) published a Request for Information (RFI) seeking information and proposals by July 9, 2020, from the foreign and domestic air cargo industry (including manufacturers, shippers, suppliers, warehouses, e-commerce fulfillment centers, third-party logistics providers, and air carriers) to assist the TSA in preemptively mitigating the anticipated costs of compliance with the International Civil Aviation Organization's (ICAO's) cargo screening framework.¹

In 2016, the ICAO revised its cargo screening framework, which was previously applicable to only passenger aircraft, to apply to **all** aircraft beginning June 30, 2021. The revision requires that "**all** [member state's] international air cargo . . . is either:

1. Screened to a level intended to identify and/or detect the presence of concealed explosive devices; or
2. Under appropriate security controls throughout the cargo supply chain to prevent the introduction of concealed explosive devices."

While the United States is compliant with the ICAO framework for cargo traveling on passenger aircraft,² the TSA is seeking to mitigate the burden of compliance for all-cargo aircraft by exploring alternatives that would be "consistent with the ICAO [screening framework] and provide a level of security commensurate with the TSA's screening requirements in terms of their effectiveness in identifying and preventing threats to transportation security."

In the RFI, the TSA advanced a potential solution to the operational and logistical challenges posed by the screening measures that would comply with ICAO and complement existing TSA programs:

The TSA could recognize "other entities," such as manufacturers, warehouse operators, or other shipping or logistics service providers, who demonstrate a system of government-approved security controls sufficient to prevent the introduction of concealed explosives into the air cargo supply chain, that can then introduce cargo into the secured supply chain without screening if the entity has implemented appropriate security controls at all times while the cargo is in its custody. These other entities would have a system of security controls that are sufficient to allow them to introduce cargo into a secure supply chain for all-cargo aircraft without a need for screening.

In particular, the TSA is seeking information on nine topics:

1. Existing security procedures in place in the ground-based portions of the industry (i.e., warehousing and shipping);
2. Existing security procedures (i.e., quality controls, theft prevention measures, or employee training programs) in place and the procedures' adaptability to satisfy ICAO to gain subsequent TSA approval;

3. Additional security measures required and the investment or other actions required to implement those procedures to satisfy ICAO standards;
4. Economic incentive to seek TSA recognition of ICAO compliance rather than paying TSA screening costs;
5. Expected cost reductions for the industry or for your organization from an ICAO-complaint regulatory program and the amount of costs that could be reduced;
6. Economic data, metrics, calculations, or procedures the TSA should consider in evaluating the costs and benefits of a ICAO-compliant framework for secure warehousing, processing, packing, and tendering of air cargo;
7. Implications of an ICAO-compliant TSA regulatory or security standard on your organization's operational business practices (i.e., future audits, control standards, account databases, or training requirements) and potential solutions to those implications;
8. New technologies in use or under development relevant to secure transport of air cargo and how technology could be utilized to implement ICAO standards; and
9. Value of an industry day or forum and any specific agenda that should be addressed.

[1] Air Cargo Security Options to Mitigate Costs of Compliance with International Security Requirements, 49 CFR Part 1458, Fed. Reg. No. 2020-06929, TSA-2020-0001, <https://www.regulations.gov/contentStreamer?documentId=TSA-2020-0001-0001&contentType=pdf>.

[2] The Certified Cargo Screening Program (CCSP) (49 CFR part 1549) has been implemented for cargo transported on passenger aircraft.

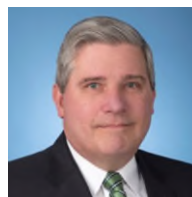
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