



DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA-2020-0001]

Announcing Opportunity to Become a Secured Packing Facility

AGENCY: Transportation Security Administration, Department of Homeland Security (DHS).

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) is announcing the opportunity for manufacturers, shippers, suppliers, warehouses, vendors, e-commerce fulfillment centers, and third-party logistics providers in the air cargo supply chain to become a Secured Packing Facility (SPF). SPFs must apply security controls to secure cargo that moves through the supply chain destined for outbound international locations onboard all-cargo aircraft subject to TSA regulatory oversight. As a prerequisite to becoming an SPF, interested persons must first become an Indirect Air Carrier (IAC) regulated by TSA and agree to adopt the TSA's SPF Order. If these requirements are met, cargo appropriately transferred to a TSA-regulated all-cargo aircraft operator by an SPF would not need to be screened in order to meet international requirements that take effect on June 30, 2021. This notice is being published to ensure all interested persons are aware of the opportunity to become an SPF.

DATES: TSA will accept applications from IACs to become an SPF beginning at 12:01 a.m. (EDT) on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons can contact <https://iac.tsa.dhs.gov/iac/contactUs.go> to obtain a copy of the information contained in this notice.

FOR FURTHER INFORMATION CONTACT: Ronoy Varghese, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598; telephone (571) 227-3555; email ronoy.varghese@tsa.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. International Civil Aviation Organization (ICAO) Security Standards

TSA developed the SPF program to provide an option for the air cargo industry to mitigate the cost of compliance with a TSA requirement that takes effect on June 30, 2021. This requirement will meet ICAO standards and recommended practices issued by ICAO under Annex 17. Under the new standard, ICAO member states¹ must ensure that all international outbound air cargo transported on commercial aircraft is either (1) screened to a level intended to identify and/or detect the presence of concealed explosive devices or (2) transported under appropriate security controls throughout the cargo supply chain to prevent the introduction of concealed explosive devices. A more complete discussion of ICAO and these requirements can be found in the Request for Information that TSA published in 2020.²

B. United States Requirements for Screening of Air Cargo

TSA is statutorily required to ensure the adequacy of security measures for the transportation of air cargo.³ TSA developed the Certified Cargo Screening Program to provide additional means of compliance with the requirements for air cargo transported on passenger aircraft.⁴ In addition, TSA developed the Third-Party Canine-Cargo program as an effective and efficient means for screening cargo transported on passenger

¹ ICAO was established under the Convention on International Civil Aviation, also known as the Chicago Convention, as a specialized agency of the United Nations Economic and Social Council. Member states collaborate to implement and comply with ICAO security standards and recommended practices, and must send official notice to ICAO whenever their domestic regulatory framework differs from an established ICAO Standard.

² See 85 FR 20234 (April 10, 2020).

³ See 49 U.S.C. 114(f)(10) and 44901(g).

⁴ See 49 CFR part 1549.

or all-cargo aircraft. TSA also recognizes Shipper Certified Cargo Screening Facilities (CCSFs.) Shipper CCSFs are manufacturers who apply the security controls required for CCSFs at the manufacturing and original packaging level, and then directly transfers the cargo to an aircraft operator without the necessity of additional screening. Currently, the medical and pharmaceutical manufacturers have taken advantage of the Shipper CCSFs. Cargo tendered by a Shipper CCSF may be transported on any commercial aircraft. Because of these requirements and programs, TSA already complies with the ICAO requirements as applied to cargo transported by aircraft operators and foreign air carriers engaged in commercial passenger transportation and has provided options available to support screening by all-cargo operators.⁵

C. Indirect Air Carriers

TSA's regulations define an IAC as "any person or entity within the United States not in possession of [a Federal Aviation Administration] air carrier operating certificate, that undertakes to engage indirectly in air transportation of property, and that uses for all or any part of such transportation the services of an air carrier."⁶ TSA estimates that there are approximately 3,200 entities in the United States operating as IACs, ranging from sole proprietors working out of their homes to large corporations.

Under 49 CFR 1548.5, each IAC must adopt and carry out a TSA-approved security program. This program must be renewed each year.⁷ TSA Principal Security Inspectors (PSIs) are responsible for the security program application process and for approval of IAC certifications.

⁵ TSA's regulations require certain commercial aircraft operators and foreign carriers to operate under a TSA approved or accepted security program. TSA provides standard, or pre-approved programs, that covered aircraft operators and foreign air carriers may adopt to expedite the review process and reduce the burden for regulated parties. There are separate security programs that reflect differences among the industry, such as passenger or cargo and U.S. or foreign-based. TSA also has standard programs for operations that support the aviation industry, such as Indirect Air Carriers and Certified Cargo Screening Facilities. TSA's current security programs for cargo transported on passenger aircraft include measures that meet the Chicago Convention's standards.

⁶ See 49 CFR 1540.5.

⁷ See 49 CFR 1548.7(b).

D. Secured Packing Facilities

Through this notice, TSA is announcing the opportunity for entities within the air cargo supply chain to become SPFs. TSA developed the concept of the SPF to provide an alternative framework that would permit all-cargo aircraft operators to accept cargo from “other entities” who demonstrate a system of government approved security controls sufficient to prevent the introduction of concealed explosives into the air cargo supply chain.⁸ Because all cargo transferred to an all-cargo aircraft operator or IAC by an SPF will have been subject to physical security measures, the cargo can be accepted for transport without requiring additional screening. The SPF benefits from this framework because they will not bear the costs or delays associated with screening all international outbound cargo. TSA is not imposing the SPF framework on the supply chain, but providing the opportunity for entities within the supply chain to choose to be regulated by TSA as an alternative to the potential burden associated with the international requirement to screen cargo that has not been otherwise subject to physical security measures.

All persons interested in becoming an SPF must meet minimal qualifications before TSA will issue the SPF Order. As a prerequisite to becoming an SPF, all interested persons must first be recognized by TSA as an IAC. Existing IACs may apply to become an SPF. Once approved as an IAC, persons can request to operate as an SPF. Applicants must submit a completed SPF-application, which requires a written plan of how the SPF will implement the requirements in the SPF Order and satisfy certain performance-based standards. If TSA determines an applicant meets TSA’s requirements, we will issue the SPF Order to the applicant.⁹ Once the Order is accepted,

⁸ See 85 FR at 20236.

⁹ TSA is issuing the Order under the authority of 49 U.S.C. 40113 and 46105. The Administrator of TSA, with respect to security duties and powers, has statutory authority to take action he considers necessary to carry out his duties and responsibilities, including issuing orders. See 49 U.S.C. 40113(a). Section 46105 also authorizes the Administrator to issue orders that take effect within a reasonable time set by the Administrator and to remain in effect under the order’s terms or until superseded. The Administrator may

the SPF is required to comply with all requirements in the Order and subject to investigation and enforcement for non-compliance.

II. How to Become a Registered Secured Packing Facility

To operate as an SPF, the interested persons must first register as an IAC and be approved as a holder of the Indirect Air Carrier Standard Security Program (IACSSP), issued under 49 CFR part 1548. The security program includes both the requirements to become an IAC and the operational requirements for accepting air cargo under TSA regulatory oversight. Currently certified IACs interested in becoming an SPF may immediately initiate the application process to become an SPR.

Persons interested in determining whether becoming an SPF meets their operational and business needs should contact TSA via the email address noted under **ADDRESSES** or by contacting the individual noted under **FOR FURTHER INFORMATION CONTACT**. To initiate the application process, interested persons must send an email indicating their interest to become an SPF to the following website address: <https://iac.tsa.dhs.gov/iac/contactUs.go>. This information will be provided to a PSI who will provide additional information regarding the application requirements. As the SPF Order is SSI protected under 49 CFR part 1520, information will also be provided on the required procedures to obtain access to SSI. Once access to SSI is permitted, TSA will provide the applicant a copy of the IAC Security Program, which includes detailed requirements for becoming and operating as a regulated entity governed by TSA. At a minimum, TSA requires interested persons to provide the following information:

- Corporate profile information to TSA, including information on the company's corporate affiliation, corporate physical location, physical

determine the form of, and required notice for, amending or suspending the order. The SPF Order will not be available to the public as it contains security sensitive information (SSI) that cannot be publicly disclosed under 49 CFR part 1520.

station locations, and information on the IAC approval and SPF certification.

- SSI-acknowledgement, training, and non-disclosure agreement.
- Letter of intent and affidavit signed by relevant principal(s).
- Legal documentation describing the corporation, ID verification, and work authorization for specific individuals.¹⁰

TSA's regulations require persons interested in becoming an IAC to apply for the IACSSP and certification to operate as an IAC no less than 90 days before commencing operations. Completed applications should be submitted to TSA at <https://iac.tsa.dhs.gov/iac/>. The IAC may commence operations under the security program after written approval from TSA that all TSA security requirements are met, including but not limited to an assessment by TSA, and successful adjudication of a Security Threat Assessment (STA) as required by the security program. Initial approval of an IAC registration and certification is effective for 12 months from the date of issuance.

IACs seeking to become an SPF must complete an SPF certification validation process. All IACs applying to become an SPF must provide the information required by TSA and undergo an onsite facility assessment performed by TSA. TSA will use this information to evaluate the IAC's qualifications and readiness to become an SPF. As part of the SPF certification validation process, the PSI will require additional information to ensure that the SPF applicant satisfactorily meets facility validation requirements. TSA's request will include, but is not limited to, the following:

- (1) Facility Management information: Primary Facility Security Coordinator and alternate contact information, STA and supporting documentation.

¹⁰ For the Information Collection Request associated with this information, see OMB Control No. 1652-0040 (Air Cargo Security Requirements).

- (2) Physical Security Control: Review the proposed SPF facility physical floor plan, such as access controls, secure cargo storage areas, perimeter security and identification of the area within the facility (whole facility, if applicable) where cargo is secured and stored.
- (3) Emergency plan and notification: Review the emergency and notification plan to ensure that approved procedures are followed and authorities notified at the time of an emergency.
- (4) Chain of custody procedures: Evaluate the chain of custody processes when handling and transporting secured packaged cargo to prevent unauthorized access, deter the introduction of any unauthorized explosives, incendiaries, and other destructive substances.
- (5) A written plan of how the SPF will implement the requirements of the SPF Order and satisfy certain performance based standards in the Order.

Once approved by TSA, the IAC will be issued the SPF Order and must comply with the regulatory requirements applicable to IACs and the SPF Order. The SPF must also ensure that all employees and authorized representatives who have duties and responsibilities for any requirement in the Order successfully complete TSA's requirements for an STA, which may include a fingerprint-based criminal history records check, and are trained to ensure the effective performance of those responsibilities, and are knowledgeable of their security responsibilities.

Dated: June 8, 2021.

Thomas L. Bush,

Acting Executive Assistant Administrator,

Operations Support.