

164963

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IN REPLY, REFER TO:  
L171-01-02-009

Docket Management System  
U.S. Department of Transportation  
Room Plaza 401  
Seventh Street, S.W.  
Washington, DC 20590

Reference: Docket Number **TSA-2002-11604 - 34**

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DEPT. OF TRANSPORTATION

The following are comments in response to Docket Number **TSA-2002-11604**, Security Programs For Aircraft **12,500** Pounds or More.

First, regarding CFR Part **1544** and security programs. This rule defines and implements programs that will be required for scheduled, public charter and private charter operations, as well as those that enplane and deplane passengers into sterile sites. It further classifies aircraft into the following categories; **61** or more passenger seats, any size aircraft, and aircraft with **31** to 60 passenger seats.

These classifications are intended to define which aircraft operators must have security programs. However, as written, these classifications are not clear and not sufficiently defined when viewed from the operational perspective. For instance, as stated those operating scheduled or public charter should have security programs in place when operating with **61** or more passengers (full programs), or **31** to **60** passenger seats (partial programs); yet, both of those are negated by "any size aircraft" that enplane or deplane into a sterile site.

Further "any size aircraft" is not defined. Does this refer to passenger seating capability, gross weight, or physical size? As written, a two passenger aircraft in scheduled or public charter service must have a security program *if* it is over the **12,500** pound threshold. We do not believe that this is the intent of the rule nor do we believe that it applies the rule fairly across the industry. Specifically, small operators will face undue financial hardship if this rule is enforced in its current form.

Second, the statement is made that "Aircraft that have a maximum certified takeoff weight of **12,500** pounds or more generally have **18** or more passenger seats."

This statement is incorrect. Statistically, there are over **6,000** aircraft in service today that are over **12,500** pound with less than **18** passenger seats. This fact alone indicates that there is a significant percentage of operators who could arbitrarily be impacted by this rule.

Third, the FAA and TSA continually make reference to aircraft of **12,500** pounds or more. This reference comes from **14** CFR Part **23** and **25** which is used to determine the rules under which aircraft are certified, and has nothing to do with the relevance of security. Use of **12,500**

pounds, as a criteria for establishing relevance to this rule, is an incorrect metric. Whereas, a more suitable and accurate criteria would be passenger seating and type of operation. We recommend that reference to 12,500 pounds be reconsidered, in light of the above and therefore be deleted.

Fourth, we support the initiatives of the new Rule 49CFR 1544.230 applying Fingerprint Based Criminal History Record Checks to flight crew members.

Fifth, under the Paperwork Reduction Act (44U.S.C.3507(4)), where the need for the rules immediate adoption is justified, the statement of "need" is incorrect. "This rule requires aircraft operators using aircraft with a maximum certificated takeoff weight of 12,500 pounds or more to implement an aviation security program." Again, the reference to this weight criteria is an incorrect assumption and will place an undue burden on a significant number of operators. This must be re-assessed.

Finally, in a response to ICAO requests for input on security measures the Interagency Group on International Aviation, an **FAA** group, commented: "Smaller airplanes (both cargo and passenger) are subjected to a much lower security threat for two reasons. First, based on accident/incident reports covering the last thirty years, the smaller airplanes are considerably less likely to be a target of terrorist activity. Second, from a simple probability point of view, there is less risk of a device getting on board when the total number of boarding passengers is smaller and the same degree of screening is applied to each passenger. This risk rationale is also valid for smaller cargo carriers since they carry smaller amounts of cargo." Further, "Based on a review of existing regulatory practice and operational experience, the United States has concluded that an applicability of passenger seating capacity greater than 60 or a maximum gross weight greater than 100,000 pounds (-45,000 Kg) is an appropriate discriminate in general."

Though the above statements by the United States to the ICAO deal with the specifics of flight deck security related to aircraft design, the specific criteria to determine size of aircraft to which the rule should be applied is directly applicable to this docket.

We would recommend amendment of the rule taking into consideration the facts as presented above.

Sincerely,

CESSNA AIRCRAFT COMPANY



David W. Brant  
Director of Engineering Services,  
Product Safety/Airworthiness

cc: Walter Desrosier – GAMA  
Gary Hay  
Jack Pelton