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United States Government Accountability Office  
Washington, DC 20548

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B-298337

June 8, 2006

The Honorable Ted Stevens  
Chairman  
The Honorable Daniel K. Inouye  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Don Young  
Chairman  
The Honorable James L. Oberstar  
Ranking Minority Member  
Committee on Transportation and Infrastructure  
House of Representatives

Subject: *Department of Homeland Security, Transportation Security Administration:  
Air Cargo Security Requirements*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Homeland Security, Transportation Security Administration (TSA), entitled "Air Cargo Security Requirements" (RIN: 1652-AA23). We received the rule on May 18, 2006. It was published in the Federal Register as a final rule on May 26, 2006. 71 Fed. Reg. 30478.

The final rule is designed to enhance and improve the security of air cargo transportation. It requires airport operators, aircraft operators, foreign air carriers, and indirect air carriers to implement security measures in the air cargo supply chain as directed under the Aviation and Transportation Security Act.

Enclosed is our assessment of the TSA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that TSA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Norman Rabkin,

Managing Director, Homeland Security and Justice. Mr. Rabkin can be reached at (202) 512-8777.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Mardi R. Thompson  
Deputy Chief Counsel, Regulations  
Department of Homeland Security

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF HOMELAND SECURITY,  
TRANSPORTATION SECURITY ADMINISTRATION  
ENTITLED  
"AIR CARGO SECURITY REQUIREMENTS"  
(RIN: 1652-AA23)

(i) Cost-benefit analysis

TSA conducted a cost-benefit analysis of the final rule. The cost impacts of the rulemaking are estimated to total approximately \$2.0 billion undiscounted (discounted: \$1.5 billion at 7 percent, \$1.8 billion at 3 percent), over the period 2005-2014. Aircraft operators will incur costs totaling \$1.9 billion, airport operators \$10.9 million, and indirect air carriers \$83.6 million. TSA anticipates the cost expenditures to administer the provisions of the rulemaking at \$27.6 million over the 10-year analysis period.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

TSA has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

TSA states that the final rule contains a private sector mandate, as defined in title II, of more than \$100 million in any one year. TSA has used the information contained in its regulatory analysis to fulfill the Act's requirement for a statement assessing the effects of the mandate.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On November 10, 2004, TSA published a Notice of Proposed Rulemaking in the Federal Register. 69 Fed. Reg. 65258. In response, TSA received 134 letters of comment in response to the notice and discussed the comments in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The total estimated annual burden for the collections is 59,607 hours.

Statutory authorization for the rule

The final rule is issued pursuant to the authority found in the Aviation and Transportation Security Act, Public Law 107-71.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

TSA states that the final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.