

are composed exclusively of nylon, rayon, or other similar synthetic fiber or material that is substantially resistant to damage from mold, mildew, or other fungi and other rotting agents propagated in a moist environment; or

(ii) Within 60 days before the date of use, if it is composed in any amount of silk, pongee, or other natural fiber, or material not specified in paragraph (a)(2)(i) of this section.

(b) No person may make a parachute jump using a static line attached to the aircraft and the main parachute unless an assist device, described and attached as follows, is used to aid the pilot chute in performing its function, or, if no pilot chute is used, to aid in the direct deployment of the main parachute canopy.

(1) The assist device must be long enough to allow the container to open before a load is placed on the device.

(2) The assist device must have a static load strength of—

(i) At least 28 pounds but not more than 160 pounds, if it is used to aid the pilot chute in performing its function; or

(ii) At least 56 pounds but not more than 320 pounds, if it is used to aid in the direct deployment of the main parachute canopy.

(3) The assist device must be attached—

(i) At one end, to the static line above the static line pins, or, if static pins are not used, above the static line ties to the parachute cone; and

(ii) At the other end, to the pilot chute apex, bridle cord or bridle loop, or, if no pilot chute is used, to the main parachute canopy.

(c) No person may attach an assist device required by paragraph (b) of this section to any main parachute unless he has a current parachute rigger certificate issued under part 65 of this chapter or is the person who makes the jump with that parachute.

(d) For the purpose of this section, an *approved* parachute is:

(1) A parachute manufactured under a type certificate or a technical standard order (C-23 series); or

(2) A personnel-carrying military parachute (other than a high altitude, high-speed, or ejection kind) identified by an NAF, AAF, or AN drawing num-

ber, an AAF order number, or any other military designation or specification number.

[Doc. No. 1491, 27 FR 11636, Nov. 27, 1962 as amended by Amdt. 105-3, 33 FR 8481 June 8, 1968; Amdt. 105-7, 43 FR 22641, May 25, 1978]

## PART 107—AIRPORT SECURITY

Sec.

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AUTHORITY: 49 U.S.C. 106(g), 5103, 40113, 40119, 44701-44702, 44706, 44901-44905, 44907, 44913-44914, 44932, 44935-44936, 46105, Sec. 306, Pub. L. 104-264, 110 Stat. 3213.

### § 107.1 Applicability and definitions.

(a) This part prescribes aviation security rules governing—

(1) The operation of each airport regularly serving the scheduled passenger operations of a certificate holder required to have a security program by § 108.5(a) of this chapter;

(2) The operation of each airport regularly serving scheduled passenger operations of a foreign air carrier required to have a security program by § 129.25 of this chapter;

(3) Each person who is in or entering a sterile area on an airport described in paragraph (a)(1) or (a)(2) of this section; and

(4) Each person who files an application or makes entries into any record or report that is kept, made, or used to show compliance under this part, or to exercise any privileges under this part.

(b) For purposes of this part—

(1) *Airport operator* means a person who operates an airport regularly serving scheduled passenger operations of a certificate holder or a foreign air carrier required to have a security program by §108.5(a) or §129.25 of this chapter;

(2) *Air Operations Area* means a portion of an airport designed and used for landing, taking off, or surface maneuvering of airplanes;

(3) *Escort* means to accompany or supervise an individual who does not have unescorted access authority to areas restricted for security purposes, as identified in the airport security program, in a manner sufficient to take action should the individual engage in activities other than those for which the escorted access is granted. The responsive actions can be taken by the escort or other authorized individual.

(4) *Exclusive area* means that part of an air operations area for which an air carrier has agreed in writing with the airport operator to exercise exclusive security responsibility under an approved security program or a security program used in accordance with §129.25;

(5) *Law enforcement officer* means an individual who meets the requirements of §107.17; and

(6) *Sterile area* means an area to which access is controlled by the inspection of persons and property in accordance with an approved security program or a security program used in accordance with §129.25.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-1, 46 FR 3785, Jan. 15, 1981; Amdt. 107-7, 60 FR 51867, Oct. 3, 1995; Amdt. 107-9, 61 FR 64244, Dec. 3, 1996]

#### §107.2 Falsification.

No person may make, or cause to be made, any of the following:

(a) Any fraudulent or intentionally false statement in any application for any security program, access medium, or identification medium, or any amendment thereto, under this part.

(b) Any fraudulent or intentionally false entry in any record or report that is kept, made, or used to show compliance with this part, or exercise any privileges under this part.

(c) Any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium, or identification medium issued under this part.

[Doc. No. 28745, 61 FR 64244, Dec. 3, 1996]

#### §107.3 Security program.

(a) No airport operator may operate an airport subject to this part unless it adopts and carries out a security program that—

(1) Provides for the safety of persons and property traveling in air transportation and intrastate air transportation against acts of criminal violence and aircraft piracy;

(2) Is in writing and signed by the airport operator or any person to whom the airport operator has delegated authority in this matter;

(3) Includes the items listed in paragraph (b), (f), or (g) of this section, as appropriate; and

(4) Has been approved by the Director of Civil Aviation Security.

(b) For each airport subject to this part regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in §108.3 of this section of this chapter) of more than 60 seats, the security program required by paragraph (a) of this section must include at least the following:

(1) A description of each air operations area, including its dimensions, boundaries, and pertinent features.

(2) A description of each area on or adjacent to, the airport which affects the security of any air operations area.

(3) A description of each exclusive area, including its dimensions, boundaries, and pertinent features, and the terms of the agreement establishing the area.

(4) The procedures, and a description of the facilities and equipment, used to perform the control functions specified in §107.13(a) by the airport operator and by each air carrier having security responsibility over an exclusive area.

(5) The procedures each air carrier having security responsibility over an exclusive area will use to notify the airport operator when the procedures, facilities, and equipment it uses are not adequate to perform the control functions described in §107.13(a).

(6) A description of the alternate security procedures, if any, that the airport operator intends to use in emergencies and other unusual conditions.

(7) A description of the law enforcement support necessary to comply with § 107.15.

(8) A description of the training program for law enforcement officers required by § 107.17.

(9) A description of the system for maintaining the records described in § 107.23.

(c) The airport operator may comply with paragraph (b), (f), or (g) of this section by including in the security program as an appendix any document which contains the information required by paragraph (b), (f), or (g) of this section.

(d) Each airport operator shall maintain at least one complete copy of its approved security program at its principal operations office, and shall make it available for inspection upon the request of any Civil Aviation Security Special Agent.

(e) Each airport operator shall—

(1) Restrict the distribution, disclosure, and availability of sensitive security information, as defined in part 191 of this chapter, to persons with a need-to-know; and

(2) Refer requests for security sensitive information by other persons to the Assistant Administrator for Civil Aviation Security.

(f) For each airport subject to this part regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in § 10.3 of this chapter) of more than 30 but less than 61 seats, the security program required by paragraph (a) of this section must include at least the following:

(1) A description of the law enforcement support necessary to comply with § 107.15(b), and the procedures which the airport operator has arranged to be used by the certificate holder or foreign air carrier to summon that support.

(2) A description of the training program for law enforcement officers required by § 107.17.

(3) A description of the system for maintaining the records described in § 107.23.

(g) For each airport subject to this part where the certificate holder or foreign air carrier is required to conduct passenger screening under a security program required by § 108.5(a) (2) or (3) or § 129.25(b) (2) or (3) of this chapter, or conducts screening under a security program being carried out pursuant to § 108.5(b), as appropriate, the security program required by paragraph (a) of this section must include at least the following:

(1) A description of the law enforcement support necessary to comply with § 107.15.

(2) A description of the training program for law enforcement officers required by § 107.17.

(3) A description of the system for maintaining the records described in § 107.23.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-1, 46 FR 3785, Jan. 15, 1981; Amdt. 107-5, 54 FR 28765, July 7, 1989; Amdt. 107-10, 62 FR 13744, Mar. 21, 1997]

#### § 107.5 Approval of security program.

(a) Unless a shorter period is allowed by the Director of Civil Aviation Security, each airport operator seeking initial approval of a security program for an airport subject to this part shall submit the proposed program to the Director of Civil Aviation Security at least 90 days before any scheduled passenger operations are expected to begin by any certificate holder or permit holder to whom § 121.538 or § 129.25 of this chapter applies.

(b) Within 30 days after receipt of a proposed security program, the Director of Civil Aviation Security either approves the program or gives the airport operator written notice to modify the program to make it conform to the applicable requirements of this part.

(c) After receipt of a notice to modify, the airport operator may either submit a modified security program or petition the Administrator to reconsider the notice to modify. A petition for reconsideration must be filed with the Director of Civil Aviation Security.

(d) Upon receipt of a petition for reconsideration, the Director of Civil Aviation Security reconsiders the notice to modify and either amends or withdraws the notice or transmits the petition, together with any pertinent

information, to the Administrator for consideration.

(e) After review of a petition for reconsideration, the Administrator disposes of the petition by either directing the Director of Civil Aviation Security to withdraw or amend the notice to modify, or by affirming the notice to modify.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-5, 54 FR 28765, July 7, 1989]

**§107.7 Changed conditions affecting security.**

(a) After approval of the security program, the airport operator shall follow the procedures prescribed in paragraph (b) of this section whenever it determines that any of the following changed conditions has occurred:

(1) Any description of an airport area set out in the security program in accordance with §107.3(b) (1), (2), or (3) is no longer accurate.

(2) The procedures included, and the facilities and equipment described, in the security program in accordance with §107.3(b) (4) and (5) are not adequate for the control functions described in §107.13(a).

(3) The airport operator changes any alternate security procedures described in the security program in accordance with §107.3(b)(6).

(4) The law enforcement support described in the security program in accordance with §107.3 (b)(7), (f)(1), or (g)(1) is not adequate to comply with §107.15.

(5) Any changes to the designation of the Airport Security Coordinator (ASC) required under §107.29.

(b) Whenever a changed condition described in paragraph (a) of this section occurs, the airport operator shall—

(1) Immediately notify the FAA security office having jurisdiction over the airport of the changed condition, and identify each interim measure being taken to maintain adequate security until an appropriate amendment to the security program is approved; and

(2) Within 30 days after notifying the FAA in accordance with paragraph (b)(1) of this section, submit for approval in accordance with §107.9 an

amendment to the security program to bring it into compliance with this part.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-1, 46 FR 3786, Jan. 15, 1981; 46 FR 36053, July 13, 1981; Amdt. 107-6, 56 FR 41424, Aug. 20, 1991]

**§107.9 Amendment of security program by airport operator.**

(a) An airport operator requesting approval of a proposed amendment to the security program shall submit the request to the Director of Civil Aviation Security. Unless a shorter period is allowed by the Director of Civil Aviation Security, the request must be submitted at least 30 days before the proposed effective date.

(b) Within 15 days after receipt of a proposed amendment, the Director of Civil Aviation Security issues to the airport operator, in writing, either an approval or a denial of the request.

(c) An amendment to a security program is approved if the Director of Civil Aviation Security determines that—

(1) Safety and the public interest will allow it, and

(2) The proposed amendment provides the level of security required by §107.3.

(d) After denial of a request for an amendment the airport operator may petition the Administrator to reconsider the denial. A petition for reconsideration must be filed with the Director of Civil Aviation Security.

(e) Upon receipt of a petition for reconsideration the Director of Civil Aviation Security reconsiders the denial and either approves the proposed amendment or transmits the petition, together with any pertinent information, to the Administrator for consideration.

(f) After review of a petition for reconsideration, the Administrator disposes of the petition by either directing the Director of Civil Aviation Security to approve the proposed amendment or affirming the denial.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-5, 54 FR 28765, July 7, 1989]

**§107.11 Amendment of security program by FAA.**

(a) The Administrator or Director of Civil Aviation Security may amend an

approved security program for an airport, if it is determined that safety and the public interest require the amendment.

(b) Except in an emergency as provided in paragraph (f) of this section, when the Administrator or the Director of Civil Aviation Security proposes to amend a security program, a notice of the proposed amendment is issued to the airport operator, in writing, fixing a period of not less than 30 days within which the airport operator may submit written information, views, and arguments on the amendment. After considering all relevant material, including that submitted by the airport operator, the Administrator or the Director of Civil Aviation Security either rescinds the notice or notifies the airport operator in writing of any amendment adopted, specifying an effective date not less than 30 days after receipt of the notice of amendment by the airport operator.

(c) After receipt of a notice of amendment from a Director of Civil Aviation Security, the airport operator may petition the Administrator to reconsider the amendment. A petition for reconsideration must be filed with the Director of Civil Aviation Security. Except in an emergency as provided in paragraph (f) of this section, a petition for reconsideration stays the amendment until the Administrator takes final action on the petition.

(d) Upon receipt of a petition for reconsideration, the Director of Civil Aviation Security reconsiders the amendment and either rescinds or modifies the amendment or transmits the petition, together with any pertinent information, to the Administrator for consideration.

(e) After review of a petition for reconsideration, the Administrator disposes of the petition by directing the Director of Civil Aviation Security to rescind the notice of amendment or to issue the amendment as proposed or in modified form.

(f) If the Administrator or the Director of Civil Aviation Security finds that there is an emergency requiring immediate action that makes the procedure in paragraph (b) of this section impracticable or contrary to the public interest, an amendment may be issued

effective without stay on the date the airport operator receives notice of it. In such a case, the Administrator or the Director of Civil Aviation Security incorporates in the notice of the amendment the finding, including a brief statement of the reasons for the emergency and the need for emergency action.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-5, 54 FR 28765, July 7, 1989]

**§ 107.13 Security of air operations area.**

(a) Except as provided in paragraph (b) of this section, each operator of an airport serving scheduled passenger operations where the certificate holder or foreign air carrier is required to conduct passenger screening under a program required by § 108.5(a)(1) or § 129.25(b)(1) of this chapter as appropriate shall use the procedures included, and the facilities and equipment described, in its approved security program, to perform the following control functions:

(1) Controlling access to each air operations area, including methods for preventing the entry of unauthorized persons and ground vehicles.

(2) Controlling movement of persons and ground vehicles within each air operations area, including, when appropriate, requirements for the display of identification.

(3) Promptly detecting and taking action to control each penetration, or attempted penetration, of an air operations area by a person whose entry is not authorized in accordance with the security program.

(b) An airport operator need not comply with paragraph (a) of this section with respect to an air carrier's exclusive area, if the airport operator's security program contains—

(1) Procedures, and a description of the facilities and equipment, used by the air carrier to perform the control functions described in paragraph (a) of this section; and

(2) Procedures by which the air carrier will notify the airport operator when its procedures, facilities, and equipment are not adequate to perform

the control functions described in paragraph (a) of this section.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-1, 46 FR 3786, Jan. 15, 1981; Amdt. 107-2, 47 FR 13316, Mar. 29, 1982]

**§ 107.14 Access control system.**

(a) Except as provided in paragraph (b) of this section, each operator of an airport regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in §108.3 of this chapter) of more than 60 seats shall submit to the Director of Civil Aviation Security, for approval and inclusion in its approved security program, an amendment to provide for a system, method, or procedure which meets the requirements specified in this paragraph for controlling access to secured areas of the airport. The system, method, or procedure shall ensure that only those persons authorized to have access to secured areas by the airport operator's security program are able to obtain that access and shall specifically provide a means to ensure that such access is denied immediately at the access point or points to individuals whose authority to have access changes. The system, method, or procedure shall provide a means to differentiate between persons authorized to have access to only a particular portion of the secured areas and persons authorized to have access only to other portions or to the entire secured area. The system, method, or procedure shall be capable of limiting an individual's access by time and date.

(b) The Director of Civil Aviation Security will approve an amendment to an airport operator's security program that provides for the use of an alternative system, method, or procedure if, in the Director's judgment, the alternative would provide an overall level of security equal to that which would be provided by the system, method, or procedure described in paragraph (a) of this section.

(c) Each airport operator shall submit the amendment to its approved security program required by paragraph (a) or (b) of this section according to the following schedule:

(1) By August 8, 1989, or by 6 months after becoming subject to this section,

whichever is later, for airports where at least 25 million persons are screened annually or airports that have been designated by the Director of Civil Aviation Security. The amendment shall specify that the system, method, or procedure must be fully operational within 18 months after the date on which an airport operator's amendment to its approved security program is approved by the Director of Civil Aviation Security.

(2) By August 8, 1989, or by 6 months after becoming subject to this section, whichever is later, for airports where more than 2 million persons are screened annually. The amendment shall specify that the system, method, or procedure must be fully operational within 24 months after the date on which an airport operator's amendment to its approved security program is approved by the Director of Civil Aviation Security.

(3) By February 8, 1990, or by 12 months after becoming subject to this section, whichever is later, for airports where at least 500,000 but not more than 2 million persons are screened annually. The amendment shall specify that the system, method, or procedure must be fully operational within 30 months after the date on which an airport operator's amendment to its approved security program is approved by the Director of Civil Aviation Security.

(4) By February 8, 1990, or by 12 months after becoming subject to this section, whichever is later, for airports where less than 500,000 persons are screened annually. The amendment shall specify that the system, method, or procedure must be fully operational within 30 months after the date on which an airport operator's amendment to its approved security program is approved by the Director of Civil Aviation Security.

(d) Notwithstanding paragraph (c) of this section, an airport operator of a newly constructed airport commencing initial operation after December 31, 1990, as an airport subject to paragraph (a) of this section, shall include as part of its original airport security program to be submitted to the FAA for approval a fully operational system,

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method, or procedure in accordance with this section.

[Doc. No. 25568, 54 FR 588, Jan. 6, 1989]

**§ 107.15 Law enforcement support.**

(a) Each airport operator shall provide law enforcement officers in the number and in a manner adequate to support—

- (1) Its security program; and
- (2) Each passenger screening system required by part 108 or §129.25 of this chapter.

(b) For scheduled or public charter passenger operations with airplanes having a passenger seating configuration (as defined in §108.3 of this chapter) of more than 30 but less than 61 seats for which a passenger screening system is not required, each airport operator shall ensure that law enforcement officers are available and committed to respond to an incident at the request of a certificate holder or foreign air carrier and shall ensure that the request procedures are provided to the certificate holder or foreign air carrier.

[Doc No. 108, 46 FR 3786, Jan. 15, 1981]

**§ 107.17 Law enforcement officers.**

(a) No airport operator may use, or arrange for response by, any person as a required law enforcement officer unless, while on duty on the airport, the officer—

- (1) Has the arrest, authority described in paragraph (b) of this section;
- (2) Is readily identifiable by uniform and displays or carries a badge or other indicia of authority;
- (3) Is armed with a firearm and authorized to use it; and
- (4) Has completed a training program that meets the requirements in paragraph (c) of this section.

(b) The law enforcement officer must, while on duty on the airport, have the authority to arrest, with or without a warrant, for the following violations of the criminal laws of the State and local jurisdictions in which the airport is located:

- (1) A crime committed in the officer's presence.
- (2) A felony, when the officer has reason to believe that the suspect has committed it.

(c) The training program required by paragraph (a)(4) of this section must provide training in the subjects specified in paragraph (d) of this section and either—

(1) Meet the training standards, if any, prescribed by either the State or the local jurisdiction in which the airport is located, for law enforcement officers performing comparable functions; or

(2) If the State and local jurisdictions in which the airport is located do not prescribe training standards for officers performing comparable functions, be acceptable to the Administrator.

(d) The training program required by paragraph (a)(4) of this section must include training in—

- (1) The use of firearms;
- (2) The courteous and efficient treatment of persons subject to inspection, detention, search, arrest, and other aviation security activities;
- (3) The responsibilities of a law enforcement officer under the airport operator's approved security program; and
- (4) Any other subject the Administrator determines is necessary.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-1, 46 FR 3786, Jan. 15, 1981]

**§ 107.19 Use of Federal law enforcement officers.**

(a) Whenever State, local, and private law enforcement officers who meet the requirements of §107.17 are not available in sufficient numbers to meet the requirements of §107.15, the airport operator may request that the Administrator authorize it to use Federal law enforcement officers.

(b) Each request for the use of Federal law enforcement officers must be accompanied by the following information:

- (1) The number of passengers enplaned at the airport during the preceding calendar year and the current calendar year as of the date of the request.
- (2) The anticipated risk of criminal violence and aircraft piracy at the airport and to the air carrier aircraft operations at the airport.
- (3) A copy of that portion of the airport operator's security program which

describes the law enforcement support necessary to comply with § 107.15.

(4) The availability of State, local, and private law enforcement officers who meet the requirements of § 107.17, including a description of the airport operator's efforts to obtain law enforcement support from State, local, and private agencies and the responses of those agencies.

(5) The airport operator's estimate of the number of Federal law enforcement officers needed to supplement available officers and the period of time for which they are needed.

(6) A statement acknowledging responsibility for providing reimbursement for the cost of providing Federal law enforcement officers.

(7) Any other information the Administrator considers necessary.

(c) In response to a request submitted in accordance with this section, the Administrator may authorize, on a reimbursable basis, the use of law enforcement officers employed by the FAA or by any other Federal agency, with the consent of the head of that agency.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978]

#### § 107.20 Submission to screening.

No person may enter a sterile area without submitting to the screening of his or her person and property in accordance with the procedures being applied to control access to that area under § 108.9 or § 129.25 of this chapter.

[Doc. No. 24883, 51 FR 1352, Jan. 10, 1986]

#### § 107.21 Carriage of an explosive, incendiary, or deadly or dangerous weapon.

(a) Except as provided in paragraph (b) of this section, no person may have an explosive, incendiary, or deadly or dangerous weapon on or about the individual's person or accessible property—

(1) When performance has begun of the inspection of the individual's person or accessible property before entering a sterile area; and

(2) When entering or in a sterile area.

(b) The provisions of this section with respect to firearms do not apply to the following:

(1) Law enforcement officers required to carry a firearm by this part while on duty on the airport.

(2) Persons authorized to carry a firearm in accordance with § 108.11 or § 129.27.

(3) Persons authorized to carry a firearm in a sterile area under an approved security program or a security program used in accordance with § 129.25.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-3, 51 FR 1352, Jan. 10, 1986]

#### § 107.23 Records.

(a) Each airport operator shall ensure that—

(1) A record is made of each law enforcement action taken in furtherance of this part;

(2) The record is maintained for a minimum of 90 days; and

(3) It is made available to the administrator upon request.

(b) Data developed in response to paragraph (a) of this section must include at least the following:

(1) The number and type of firearms, explosives, and incendiaries discovered during any passenger screening process, and the method of detection of each.

(2) The number of acts and attempted acts of air piracy.

(3) The number of bomb threats received, real and simulated bombs found, and actual bombings on the airport.

(4) The number of detentions and arrests, and the immediate disposition of each person detained or arrested.

[Doc. No. 16245, 43 FR 60792, Dec. 28, 1978, as amended by Amdt. 107-3, 51 FR 1352, Jan. 10, 1986]

#### § 107.25 Airport identification media.

(a) As used in this section, *security identification display area* means any area identified in the airport security program as requiring each person to continuously display on their outermost garment, an airport-approved identification medium unless under airport-approved escort.

(b) After January 1, 1992, an airport operator may not issue to any person any identification media that provides

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unescorted access to any security identification display area unless the person has successfully completed training in accordance with an FAA-approved curriculum specified in the security program.

(c) By October 1, 1992, not less than 50 percent of all individuals possessing airport-issued identification that provides unescorted access to any security identification display area at that airport shall have been trained in accordance with an FAA-approved curriculum specified in the security program.

(d) After May 1, 1993, an airport operator may not permit any person to possess any airport-issued identification medium that provides unescorted access to any security identification display area at that airport unless the person has successfully completed FAA-approved training in accordance with a curriculum specified in the security program.

(e) The curriculum specified in the security program shall detail the methods of instruction, provide attendees the opportunity to ask questions, and include at least the following topics:

(1) Control, use, and display of airport-approved identification or access media;

(2) Challenge procedures and the law enforcement response which supports the challenge procedure;

(3) Restrictions on divulging information concerning an act of unlawful interference with civil aviation if such information is likely to jeopardize the safety of domestic or international aviation;

(4) Non-disclosure of information regarding the airport security system or any airport tenant's security systems; and

(5) Any other topics deemed necessary by the Assistant Administrator for Civil Aviation Security.

(f) No person may use any airport-approved identification medium that provides unescorted access to any security identification display area to gain such access unless that medium was issued to that person by the appropriate airport authority or other entity whose identification is approved by the airport operator.

(g) The airport operator shall maintain a record of all training given to

each person under this section until 180 days after the termination of that person's unescorted access privileges.

[Doc. No. 26522, 56 FR 41424, Aug. 20, 1991]

**§ 107.27 Evidence of compliance.**

On request of the Assistant Administrator for Civil Aviation Security, each airport operator shall provide evidence of compliance with this part and its approved security program.

[Doc. No. 26522, 56 FR 41424, Aug. 20, 1991]

**§ 107.29 Airport Security Coordinator.**

Each airport operator shall designate an Airport Security Coordinator (ASC) in its security program. The designation shall include the name of the ASC, and a description of the means by which to contact the ASC on a 24-hour basis. The ASC shall serve as the airport operator's primary contact for security-related activities and communications with FAA, as set forth in the security program.

[Doc. No. 26522, 56 FR 41425, Aug. 20, 1991]

**§ 107.31 Employment history, verification and criminal history records checks.**

(a) *Scope.* On or after January 31, 1996, this section applies to all airport operators; airport users; individuals currently having unescorted access to a security identification display area (SIDA) that is identified by § 107.25; all individuals seeking authorization for, or seeking the authority to authorize others to have, unescorted access to the SIDA; and each airport user and air carrier making a certification to an airport operator pursuant to paragraph (n) of this section. An airport user, for the purposes of § 107.31 only, is any person making a certification under this section other than an air carrier subject to § 108.33.

(b) *Employment history investigations required.* Except as provided in paragraph (m) of this section, each airport operator must ensure that no individual is granted authorization for, or is granted authority to authorize others to have, unescorted access to the SIDA unless the following requirements are met:

(1) The individual has satisfactorily undergone Part 1 of an employment

history investigation. Part 1 consists of a review of the previous 10 years of employment history and verification of the 5 employment years preceding the date the appropriate investigation is initiated as provided in paragraph (c) of this section; and

(2) If required by paragraph (c)(5) of this section, the individual has satisfied Part 2 of the employment history investigation. Part 2 is the process to determine if the individual has a criminal record. To satisfy Part 2 of the investigation the criminal record check must not disclose that the individual has been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years ending on the date of such investigation, of any of the crimes listed below:

- (i) Forgery of certificates, false marking of aircraft, and other aircraft registration violation, 49 U.S.C. 46306;
- (ii) Interference with air navigation, 49 U.S.C. 46308;
- (iii) Improper transportation of a hazardous material, 49 U.S.C. 46312;
- (iv) Aircraft piracy, 49 U.S.C. 46502;
- (v) Interference with flightcrew members or flight attendants, 49 U.S.C. 46504;
- (vi) Commission of certain crimes aboard aircraft in flight, 49 U.S.C. 46506;
- (vii) Carrying a weapon or explosive aboard aircraft, 49 U.S.C. 46505;
- (viii) Conveying false information and threats, 49 U.S.C. 46507;
- (ix) Aircraft piracy outside the special aircraft jurisdiction of the United States, 49 U.S.C. 46502(b);
- (x) Lighting violations involving transporting controlled substances, 49 U.S.C. 46315;
- (xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements, 49 U.S.C. 46314;
- (xii) Destruction of an aircraft or aircraft facility, 18 U.S.C. 32;
- (xiii) Murder;
- (xiv) Assault with intent to murder;
- (xv) Espionage;
- (xvi) Sedition;
- (xvii) Kidnapping or hostage taking;
- (xviii) Treason;
- (xix) Rape or aggravated sexual abuse;

(xx) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;

- (xxi) Extortion;
- (xxii) Armed robbery;
- (xxiii) Distribution of, or intent to distribute, a controlled substance;
- (xxiv) Felony arson; or
- (xxv) Conspiracy or attempt to commit any of the aforementioned criminal acts.

(c) *Investigative steps.* Part 1 of the employment history investigation must be completed on all persons listed in paragraph (a) of this section. If required by paragraph (c)(5) of this section, Part 2 of the employment history investigation must also be completed on all persons listed in paragraph (a) of this section.

(1) The individual must provide the following information on an application form:

- (i) The individual's full name, including any aliases or nicknames.
  - (ii) The dates, names, phone numbers, and addresses of previous employers, with explanations for any gaps in employment of more than 12 consecutive months, during the previous 10-year period.
  - (iii) Any convictions during the previous 10-year period of the crimes listed in paragraph (b)(2) of this section.
- (2) The airport operator or the airport user must include on the application form a notification that the individual will be subject to an employment history verification and possibly a criminal records check.

(3) The airport operator or the airport user must verify the identity of the individual through the presentation of two forms of identification, one of which must bear the individual's photograph.

(4) The airport operator or the airport user must verify the information on the most recent 5 years of employment history required under paragraph (c)(1)(ii) of this section. Information must be verified in writing, by documentation, by telephone, or in person.

(5) If one or more of the conditions (triggers) listed in §107.31(c)(5)(i) through (iv) exist, the employment history investigation must not be considered complete unless Part 2 is accomplished. Only the airport operator may

initiate Part 2 for airport users under this section. Part 2 consists of a comparison of the individual's fingerprints against the fingerprint files of known criminals maintained by the Federal Bureau of Investigation (FBI). The comparison of the individual's fingerprints must be processed through the FAA. The airport operator may request a check of the individual's fingerprint-based criminal record only if one or more of the following conditions exist:

(i) The individual does not satisfactorily account for a period of unemployment of 12 consecutive months or more during the previous 10-year period.

(ii) The individual is unable to support statements made on the application form.

(iii) There are significant inconsistencies in the information provided on the application.

(iv) Information becomes available to the airport operator or the airport user during the investigation indicating a possible conviction for one of the crimes listed in paragraph (b)(2) of this section.

(d) *Individual notification.* Prior to commencing the criminal records check, the airport operator must notify the affected individual and identify the Airport Security Coordinator as a contact for follow-up. An individual, who chooses not to submit fingerprints, after having met a requirement for Part 2 of the employment investigation, may not be granted unescorted access privilege.

(e) *Fingerprint processing.* If a fingerprint comparison is necessary under paragraph (c)(5) of this section to complete the employment history investigation the airport operator must collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints must be recorded on fingerprint cards approved by the FBI, and distributed by the FAA for this purpose.

(2) The fingerprints must be obtained from the individual under direct observation by the airport operator or a law enforcement officer. Individuals submitting their fingerprints may not take possession of their fingerprint

card after they have been fingerprinted.

(3) The identity of the individual must be verified at the time fingerprints are obtained. The individual must present two forms of identification, one of which must bear the individual's photograph.

(4) The fingerprint card must be forwarded to the FAA at the location specified by the Administrator.

(5) Fees for the processing of the criminal record checks are due upon application. Airport operators must submit payment through corporate check, cashier's check, or money order made payable to "U.S. FAA," at the designated rate for each fingerprint card. Combined payment for multiple applications is acceptable. The designated rate for processing the fingerprint cards is available from the local FAA security office.

(f) *Determination of arrest status.* In conducting the criminal record checks required by this section, the airport operator must not consider the employment history investigation complete unless it investigates arrest information for the crimes listed in paragraph (b)(2) of this section for which no disposition has been recorded and makes a determination that the arrest did not result in a disqualifying conviction.

(g) *Availability and correction of FBI records and notification of disqualification.* (1) At the time Part 2 is initiated and the fingerprints are collected, the airport operator must notify the individual that a copy of the criminal record received from the FBI will be made available to the individual if requested in writing. When requested in writing, the airport operator must make available to the individual a copy of any criminal record received from the FBI.

(2) Prior to making a final decision to deny authorization to an individual described in paragraph (a) of this section, the airport operator must advise the individual that the FBI criminal record discloses information that would disqualify him/her from receiving unescorted access and provide the individual with a copy of the FBI record if it has been requested.

(3) The airport operator must notify an individual that a final decision has

been made to grant or deny authority for unescorted access.

(h) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his/her record before any final decision is made, subject to the following conditions:

(1) Within 30 days after being advised that the criminal record received from the FBI discloses disqualifying information, the individual must notify the airport operator, in writing, of his/her intent to correct any information believed to be inaccurate.

(i) Upon notification by an individual that the record has been corrected, the airport operator must obtain a copy of the revised FBI record prior to making a final determination.

(2) If no notification is received within 30 days, the airport operator may make a final determination.

(i) *Limits on dissemination of results.* Criminal record information provided by the FBI must be used solely for the purposes of this section, and no person may disseminate the results of a criminal record check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) Airport officials with a need to know; and

(3) Others designated by the Administrator.

(j) *Employment status while awaiting criminal record checks.* Individuals who have submitted their fingerprints and are awaiting FBI results may perform work within the SIDA when under escort by someone who has unescorted SIDA access privileges.

(k) *Recordkeeping.* (1) Except when the airport operator has received a certification under paragraph (n)(1) of this section, the airport operator must physically maintain and control the Part 1 employment history investigation file until 180 days after the termination of the individual's authority for unescorted access. The Part 1, employment history investigation file, must consist of the following:

(i) The application;

(ii) The employment verification information obtained by the employer;

(iii) The names of those from whom the employment verification information was obtained;

(iv) The date and the method of how the contact was made; and

(v) Any other information as required by the Administrator.

(2) The airport operator must physically maintain, control and when appropriate destroy Part 2, the criminal record, for each individual for whom a fingerprint comparison has been completed. Part 2 must be maintained for 180 days after the termination of the individual's authority for unescorted access. Only direct airport operator employees may carry out this criminal record file responsibility. The Part 2 criminal record file must consist of the following:

(i) The criminal record received from the FBI as a result of an individual's fingerprint comparison; or

(ii) Information that the check was completed and no record exists.

(3) The files required by this section must be maintained in a manner that is acceptable to the Administrator and in a manner that protects the confidentiality of the individual.

(l) *Continuing responsibilities.* (1) Any individual authorized to have unescorted access privileges or who may authorize others to have unescorted access, who is subsequently convicted of any of the crimes listed in paragraph (b)(2) of this section must, within 24 hours, report the conviction to the airport operator and surrender the SIDA access medium to the issuer.

(2) If information becomes available to the airport operator or the airport user indicating that an individual with unescorted access has a possible conviction for one of the disqualifying crimes in paragraph (b)(2) of this section, the airport operator must determine the status of the conviction. If a disqualifying conviction is confirmed the airport operator must withdraw any authority granted under this section.

(m) *Exceptions.* Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access, or to authorize others to have unescorted access to the SIDA:

(1) An employee of the Federal government or a state or local government (including a law enforcement officer) who, as a condition of employment, has been subjected to an employment investigation which includes a criminal record check.

(2) A crewmember of a foreign air carrier covered by an alternate security arrangement in the foreign air carrier's approved security program.

(3) An individual who has been continuously employed in a position requiring unescorted access by another airport operator, airport user or air carrier.

(4) Those persons who have received access to a U.S. Customs secured area prior to November 23, 1998.

(n) *Investigations by air carriers and airport users.* An airport operator is in compliance with its obligation under paragraph (b) of this section, as applicable, when the airport operator accepts for each individual seeking unescorted access one of the following:

(1) Certification from an air carrier subject to §108.33 of this chapter indicating it has complied with §§108.33 of this chapter for the air carrier's employees and contractors seeking unescorted access; or

(2) Certification from an airport user indicating it has complied with and will continue to comply with the provisions listed in paragraph (p) of this section. The certification must include the name of each individual for whom the airport user has conducted an employment history investigation.

(o) *Airport operator responsibility.* The airport operator must:

(1) Prior to the acceptance of a certification from the airport user, the airport operator must conduct a preliminary review of the file for each individual listed on the certification to determine that Part 1 has been completed.

(2) Designate the airport security coordinator (ASC), in the security program, to be responsible for reviewing the results of the airport employees' and airport users' employment history investigations and for destroying the criminal record files when their maintenance is no longer required by paragraph (k)(2) of this section;

(3) Designate the ASC, in the security program, to serve as the contact to receive notification from individuals applying for unescorted access of their intent to seek correction of their FBI criminal record; and

(4) Audit the employment history investigations performed by the airport operator in accordance with this section and those investigations conducted by the airport users made by certification under paragraph (n)(2). The audit program must be set forth in the airport security program.

(p) *Airport user responsibility.*

(1) The airport user is responsible for reporting to the airport operator information, as it becomes available, which indicates an individual with unescorted access may have a conviction for one of the disqualifying crimes in paragraph (b)(2) of this section; and

(2) If the airport user offers certification to the airport operator under paragraph (n)(2) of this section, the airport user must for each individual for whom a certification is made:

(i) Conduct the employment history investigation, Part 1, in compliance with paragraph (c) of this section. The airport user must report to the airport operator if one of the conditions in paragraph (C)(5) of this section exist;

(ii) Maintain and control Part 1 of the employment history investigation file in compliance with paragraph (k) of this section, unless the airport operator decides to maintain and control Part 1 of the employment history investigation file;

(iii) Provide the airport operator and the FAA with access to each completed Part 1 employee history investigative file of those individuals listed on the certification; and

(iv) Provide either the name or title of the individual acting as custodian of the files, and the address of the location and the phone number at the location where the investigative files are maintained.

[Doc. No. 28859, 63 FR 51218, Sept. 24, 1998; 63 FR 60448, Nov. 9, 1998]

## PART 108—AIRPLANE OPERATOR SECURITY

Sec.  
108.1 Applicability.