

SUBCHAPTER C—CIVIL AVIATION SECURITY

PART 1540—CIVIL AVIATION SECURITY: GENERAL RULES

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Subpart A—General

§ 1540.1 Applicability of this subchapter and this part.

This subchapter and this part apply to persons engaged in aviation-related activities.

§ 1540.3 Delegation of authority.

(a) Where the Administrator is named in this subchapter as exercising authority over a function, the authority is exercised by the Administrator or the Deputy Administrator, or any individual formally designated to act as the Administrator or the Deputy Administrator.

(b) Where TSA or the designated official is named in this subchapter as exercising authority over a function, the authority is exercised by the official designated by the Administrator to perform that function.

§ 1540.5 Terms used in this subchapter.

In addition to the terms in part 1500 of this chapter, the following terms are used in this subchapter:

Air operations area (AOA) means a portion of an airport, specified in the airport security program, in which security measures specified in this part are carried out. This area includes aircraft movement areas, aircraft parking areas, loading ramps, and safety areas, for use by aircraft regulated under 49 CFR part 1544 or 1546, and any adjacent areas (such as general aviation areas) that are not separated by adequate security systems, measures, or procedures. This area does not include the secured area.

Aircraft operator means a person who uses, causes to be used, or authorizes to be used an aircraft, with or without the right of legal control (as owner, lessee, or otherwise), for the purpose of air navigation including the piloting of aircraft, or on any part of the surface of an airport. In specific parts or sections of this subchapter, “aircraft operator” is used to refer to specific types of operators as described in those parts or sections.

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Airport operator means a person that operates an airport serving an aircraft operator or a foreign air carrier required to have a security program under part 1544 or 1546 of this chapter.

Airport security program means a security program approved by TSA under §1542.101 of this chapter.

Airport tenant means any person, other than an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter, that has an agreement with the airport operator to conduct business on airport property.

Airport tenant security program means the agreement between the airport operator and an airport tenant that specifies the measures by which the tenant will perform security functions, and approved by TSA, under §1542.113 of this chapter.

Approved, unless used with reference to another person, means approved by TSA.

Cargo means property tendered for air transportation accounted for on an air waybill. All accompanied commercial courier consignments, whether or not accounted for on an air waybill, are also classified as cargo. Aircraft operator security programs further define the term “cargo.”

Certified cargo screening facility (CCSF) means a facility certified by TSA to screen air cargo in accordance with part 1549. As used in this subchapter, “certified cargo screening facility” refers to the legal entity that operates a CCSF at a particular location.

Certified cargo screening program (CCSP) means the program under which facilities are authorized to screen cargo to be offered for transport on certain passenger aircraft in accordance with 49 CFR part 1549.

Checked baggage means property tendered by or on behalf of a passenger and accepted by an aircraft operator for transport, which is inaccessible to passengers during flight. Accompanied commercial courier consignments are not classified as checked baggage.

Escort means to accompany or monitor the activities of an individual who does not have unescorted access authority into or within a secured area or SIDA.

Exclusive area means any portion of a secured area, AOA, or SIDA, including individual access points, for which an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter has assumed responsibility under §1542.111 of this chapter.

Exclusive area agreement means an agreement between the airport operator and an aircraft operator or a foreign air carrier that has a security program under parts 1544 or 1546 of this chapter that permits such an aircraft operator or foreign air carrier to assume responsibility for specified security measures in accordance with §1542.111 of this chapter.

FAA means the Federal Aviation Administration.

Flightcrew member means a pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time.

Indirect air carrier (IAC) means any person or entity within the United States not in possession of an FAA air carrier operating certificate, that undertakes to engage indirectly in air transportation of property, and uses for all or any part of such transportation the services of an air carrier. This does not include the United States Postal Service (USPS) or its representative while acting on the behalf of the USPS.

Loaded firearm means a firearm that has a live round of ammunition, or any component thereof, in the chamber or cylinder or in a magazine inserted in the firearm.

Passenger seating configuration means the total maximum number of seats for which the aircraft is type certificated that can be made available for passenger use aboard a flight, regardless of the number of seats actually installed, and includes that seat in certain aircraft that may be used by a representative of the FAA to conduct flight checks but is available for revenue purposes on other occasions.

Private charter means any aircraft operator flight—

(1) For which the charterer engages the total passenger capacity of the aircraft for the carriage of passengers; the passengers are invited by the charterer; the cost of the flight is

borne entirely by the charterer and not directly or indirectly by any individual passenger; and the flight is not advertised to the public, in any way, to solicit passengers.

(2) For which the total passenger capacity of the aircraft is used for the purpose of civilian or military air movement conducted under contract with the Government of the United States or the government of a foreign country.

Public charter means any charter flight that is not a private charter.

Scheduled passenger operation means an air transportation operation (a flight) from identified air terminals at a set time, which is held out to the public and announced by timetable or schedule, published in a newspaper, magazine, or other advertising medium.

Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

Screening location means each site at which individuals or property are inspected for the presence of weapons, explosives, or incendiaries.

Secured area means a portion of an airport, specified in the airport security program, in which certain security measures specified in part 1542 of this chapter are carried out. This area is where aircraft operators and foreign air carriers that have a security program under part 1544 or 1546 of this chapter enplane and deplane passengers and sort and load baggage and any adjacent areas that are not separated by adequate security measures.

Security Identification Display Area (SIDA) means a portion of an airport, specified in the airport security program, in which security measures specified in this part are carried out. This area includes the secured area and may include other areas of the airport.

Standard security program means a security program issued by TSA that serves as a baseline for a particular type of operator. If TSA has issued a standard security program for a particular type of operator, unless otherwise authorized by TSA, each operator's security program consists of the standard security program together with any amendments and alternative

procedures approved or accepted by TSA.

Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the access generally is controlled by TSA, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter, through the screening of persons and property.

Unescorted access authority means the authority granted by an airport operator, an aircraft operator, foreign air carrier, or airport tenant under part 1542, 1544, or 1546 of this chapter, to individuals to gain entry to, and be present without an escort in, secured areas and SIDA's of airports.

Unescorted access to cargo means the authority granted by an aircraft operator or IAC to individuals to have access to air cargo without an escort.

[67 FR 8353, Feb. 22, 2002, as amended at 67 FR 8209, Feb. 22, 2002; 71 FR 30507, May 26, 2006; 74 FR 47700, Sept. 16, 2009]

Subpart B—Responsibilities of Passengers and Other Individuals and Persons

§ 1540.101 Applicability of this subpart.

This subpart applies to individuals and other persons.

§ 1540.103 Fraud and intentional falsification of records.

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 subchapter.

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

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

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§ 1540.105 Security responsibilities of employees and other persons.

(a) No person may:

(1) Tamper or interfere with, compromise, modify, attempt to circumvent, or cause a person to tamper or interfere with, compromise, modify, or attempt to circumvent any security system, measure, or procedure implemented under this subchapter.

(2) Enter, or be present within, a secured area, AOA, SIDA or sterile area without complying with the systems, measures, or procedures being applied to control access to, or presence or movement in, such areas.

(3) Use, allow to be used, or cause to be used, any airport-issued or airport-approved access medium or identification medium that authorizes the access, presence, or movement of persons or vehicles in secured areas, AOA's, or SIDA's in any other manner than that for which it was issued by the appropriate authority under this subchapter.

(b) The provisions of paragraph (a) of this section do not apply to conducting inspections or tests to determine compliance with this part or 49 U.S.C. Subtitle VII authorized by:

(1) TSA, or

(2) The airport operator, aircraft operator, or foreign air carrier, when acting in accordance with the procedures described in a security program approved by TSA.

§ 1540.107 Submission to screening and inspection.

(a) No individual may enter a sterile area or board an aircraft without submitting to the screening and inspection of his or her person and accessible property in accordance with the procedures being applied to control access to that area or aircraft under this subchapter.

(b) An individual must provide his or her full name, as defined in §1560.3 of this chapter, date of birth, and gender when—

(1) The individual, or a person on the individual's behalf, makes a reservation for a covered flight, as defined in §1560.3 of this chapter, or

(2) The individual makes a request for authorization to enter a sterile area.

(c) An individual may not enter a sterile area or board an aircraft if the individual does not present a verifying identity document as defined in §1560.3 of this chapter, when requested for purposes of watch list matching under §1560.105(c), unless otherwise authorized by TSA on a case-by-case basis.

[73 FR 64061, Oct. 28, 2008]

§ 1540.109 Prohibition against interference with screening personnel.

No person may interfere with, assault, threaten, or intimidate screening personnel in the performance of their screening duties under this subchapter.

§ 1540.111 Carriage of weapons, explosives, and incendiaries by individuals.

(a) *On an individual's person or accessible property—prohibitions.* Except as provided in paragraph (b) of this section, an individual may not have a weapon, explosive, or incendiary, 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, or before boarding an aircraft for which screening is conducted under this subchapter;

(2) When the individual is entering or in a sterile area; or

(3) When the individual is attempting to board or onboard an aircraft for which screening is conducted under §§1544.201, 1546.201, or 1562.23 of this chapter.

(b) *On an individual's person or accessible property—permitted carriage of a weapon.* Paragraph (a) of this section does not apply as to carriage of firearms and other weapons if the individual is one of the following:

(1) Law enforcement personnel required to carry a firearm or other weapons while in the performance of law enforcement duty at the airport.

(2) An individual authorized to carry a weapon in accordance with §§1544.219, 1544.221, 1544.223, 1546.211, or subpart B of part 1562 of this chapter.

(3) An individual authorized to carry a weapon in a sterile area under a security program.

(c) *In checked baggage.* A passenger may not transport or offer for transport in checked baggage or in baggage carried in an inaccessible cargo hold under § 1562.23 of this chapter:

- (1) Any loaded firearm(s).
- (2) Any unloaded firearm(s) unless—
 - (i) The passenger declares to the aircraft operator, either orally or in writing, before checking the baggage, that the passenger has a firearm in his or her bag and that it is unloaded;
 - (ii) The firearm is unloaded;
 - (iii) The firearm is carried in a hard-sided container; and
 - (iv) The container in which it is carried is locked, and only the passenger retains the key or combination.

(3) Any unauthorized explosive or incendiary.

(d) *Ammunition.* This section does not prohibit the carriage of ammunition in checked baggage or in the same container as a firearm. Title 49 CFR part 175 provides additional requirements governing carriage of ammunition on aircraft.

[67 FR 8353, Feb. 22, 2002, as amended at 67 FR 41639, June 19, 2002; 70 FR 41600, July 19, 2005; 71 FR 30507, May 26, 2006]

§ 1540.113 Inspection of airman certificate.

Each individual who holds an airman certificate, medical certificate, authorization, or license issued by the FAA must present it for inspection upon a request from TSA.

§ 1540.115 Threat assessments regarding citizens of the United States holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is a United States citizen and who holds, or is applying for, an airman certificate, rating, or authorization issued by the Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Administrator means the Administrator of the Transportation Security Administration.

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat.* An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel.* The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance.* If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the individual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information

available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat.* An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel.* The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment—(1) Issuance.* If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notifica-

tion, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 74 FR 47700, Sept. 16, 2009, unless otherwise noted.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, indirect air carriers, and certified cargo screening facilities must use to have security threat assessments performed on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, 1548.16 and 1549.111. This subpart applies to the following:

- (1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).
- (2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).
- (3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.
- (4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.
- (5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.
- (6) Each certified cargo screening facility described in 49 CFR part 1549.
- (7) Each individual a certified cargo screening facility authorizes to perform screening or supervise screening.
- (8) Each individual the certified cargo screening facility authorizes to have unescorted access to cargo at any time from the time it is screened until the time it is tendered to an indirect air carrier under 49 CFR part 1548, an aircraft operator under part 1544, or a foreign air carrier under part 1546.
- (9) The senior manager or representative of its facility in control of the operations of a certified cargo screening facility under 49 CFR part 1549.

(b) For purposes of this subpart—
Applicant means the individuals listed in paragraph (a) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through

(a)(3) of this section, and a certified cargo screening facility described in paragraph (a)(6) of this section.

(c) An applicant poses a security threat under this subpart when TSA determines that he or she is known to pose or is suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[74 FR 47700, Sept. 16, 2009, as amended at 76 FR 51867, Aug. 18, 2011]

§ 1540.203 Security threat assessment.

(a) Each operator subject to this subpart must ensure that each of the following undergoes a security threat assessment or a comparable security threat assessment described in § 1540.205:

- (1) Cargo personnel in the United States, as described in § 1544.228.
- (2) Cargo personnel in the United States, as described in § 1546.213.
- (3) Individuals with unescorted access to cargo, as described in § 1548.15.
- (4) Proprietors, general partners, officers, directors, and owners of an indirect air carrier, as described in § 1548.16.
- (5) Personnel of certified cargo screening facilities, as described in § 1549.111.

(b) Each operator must verify the identity and work authorization of each applicant and examine the document(s) presented by the applicant to prove identity and work authorization to determine whether they appear to be genuine and relate to the applicant presenting them.

(c) Each operator must submit to TSA a security threat assessment application for each applicant that is dated and signed by the applicant and that includes the following:

- (1) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.
- (2) Current mailing address, including residential address if it differs from the current mailing address; all other residential addresses for the previous five years; and e-mail address if the applicant has an e-mail address.
- (3) Date and place of birth.
- (4) Social security number (submission is voluntary, although failure to

provide it may delay or prevent completion of the threat assessment).

(5) Gender.

(6) Country of citizenship.

(7) If the applicant is a U.S. citizen born abroad or a naturalized U.S. citizen, their U.S. passport number; or the 10-digit document number from the applicant's Certificate of Birth Abroad, Form DS-1350.

(8) If the applicant is not a U.S. citizen, the applicant's Alien Registration Number.

(9) The applicant's daytime telephone number.

(10) The applicant's current employer(s), and the address and telephone number of the employer(s).

(11) A Privacy Notice as required in the security program and the following statement:

The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement, or an omission of a material fact, on this application can be punished by fine or imprisonment or both (*see* section 1001 of Title 18 United States Code), and may be grounds for denial of authorization or in the case of parties regulated under this section, removal of authorization to operate under this chapter, if applicable.

I acknowledge that if I do not successfully complete the security threat assessment, the Transportation Security Administration may notify my employer. If TSA or other law enforcement agency becomes aware that I may pose an imminent threat to an operator or facility, TSA may provide limited information necessary to reduce the risk of injury or damage to the operator or facility.

(d) Each operator must retain the following for 180 days following the end of the applicant's service to the operator:

(1) The applicant's signed security threat assessment application.

(2) Copies of the applicant's document(s) used to verify identity and work authorization.

(3) Any notifications or documents sent to or received from TSA relating to the applicant's application and security threat assessment.

(4) As applicable, a copy of the applicant's credential evidencing completion of a threat assessment deemed comparable under paragraph (f) of this section.

(e) Records under this section may include electronic documents with electronic signature or other means of personal authentication, where accepted by TSA.

(f) TSA may determine that a security threat assessment conducted by another governmental agency is comparable to a security threat assessment conducted under this subpart. Individuals who have successfully completed a comparable security threat assessment are not required to undergo the security threat assessments described in this subpart. If TSA makes a comparability determination under this section, TSA will so notify the public. In making a comparability determination, TSA will consider—

(i) The minimum standards used for the security threat assessment;

(ii) The frequency of the security threat assessment;

(iii) The date of the most recent threat assessment; and

(iv) Other factors TSA deems appropriate.

(g) To apply for a comparability determination, the agency seeking the determination must contact the Assistant Program Manager, Attn: Federal Agency Comparability Check, Hazmat Threat Assessment Program, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598-6019.

(h) TSA has determined that each of the following are comparable to the security threat assessment required in this subpart:

(1) A CHRC conducted in accordance with §§ 1542.209, 1544.229, or 1544.230 that includes a name-based check conducted by TSA.

(2) A security threat assessment conducted under 49 CFR part 1572 for the Transportation Worker Identification Credential or Hazardous Materials Endorsement programs.

(3) A security threat assessment conducted for the Free and Secure Trade (FAST) program administered by U.S. Customs and Border Protection.

(i) If asserting completion of a comparable threat assessment listed in paragraph (h) of this section, an individual must—

(1) Present the credential that corresponds to successful completion of

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the comparable assessment to the operator so the operator may retain a copy of it; and

(2) Notify the operator when the credential that corresponds to successful completion of the comparable assessment expires or is revoked for any reason.

(j) A security threat assessment conducted under this subpart remains valid for five years from the date that TSA issues a Determination of No Security Threat or a Final Determination of Threat Assessment, except—

(1) If the applicant is no longer authorized to be in the United States, the security threat assessment and the privileges it conveys expire on the date lawful presence expires; or

(2) If the applicant asserts completion of a comparable threat assessment, it expires five years from the date of issuance of the credential that corresponds to the comparable assessment, or the date on which the credential is revoked for any reason.

[74 FR 47700, Sept. 16, 2009, as amended at 76 FR 51867, Aug. 18, 2011]

§ 1540.205 Procedures for security threat assessment.

(a) *Contents of security threat assessment.* The security threat assessment TSA conducts under this subpart includes an intelligence-related check and a final disposition.

(b) *Intelligence-related check.* To conduct an intelligence-related check, TSA completes the following procedures:

(1) Reviews the applicant information required in 49 CFR 1540.203.

(2) Searches domestic and international government databases to determine if an applicant meets the requirements of 49 CFR 1540.201(c) or to confirm an applicant's identity.

(3) Adjudicates the results in accordance with 49 CFR 1540.201(c).

(c) *Wants, warrants, deportable aliens.* If the searches listed in paragraph (b)(2) of this section indicate that an applicant has an outstanding want or warrant, or is a deportable alien under the immigration laws of the United States, TSA sends the applicant's information to the appropriate law enforcement or immigration agency.

(d) *Final disposition.* Following completion of the procedures described in paragraph (b), the following procedures apply, as appropriate:

(1) TSA serves a Determination of No Security Threat on the applicant and operator if TSA determines that the applicant meets the security threat assessment standards in 49 CFR 1540.201(c).

(2) TSA serves an Initial Determination of Threat Assessment on the applicant, if TSA determines that the applicant does not meet the security threat assessment standards in 49 CFR 1540.201(c). The Initial Determination of Threat Assessment includes—

(i) A statement that TSA has determined that the applicant is suspected of posing or poses a security threat;

(ii) The basis for the determination;

(iii) Information about how the applicant may appeal the determination, as described in 49 CFR 1515.9; and

(iv) A statement that if the applicant chooses not to appeal TSA's determination within 60 days of receipt of the Initial Determination, or does not request an extension of time within 60 days of the Initial Determination of Threat Assessment in order to file an appeal, the Initial Determination becomes a Final Determination of Security Threat Assessment.

(3) TSA serves an Initial Determination of Threat Assessment and Immediate Revocation on the applicant and the applicant's operator or other operator as approved by TSA, where appropriate, if TSA determines that the applicant does not meet the security threat assessment standards in 49 CFR 1540.201(c) and may pose an imminent threat to transportation or national security, or of terrorism. The Initial Determination of Threat Assessment and Immediate Revocation includes—

(i) A statement that TSA has determined that the applicant is suspected of posing or poses an imminent security threat;

(ii) The basis for the determination;

(iii) Information about how the applicant may appeal the determination, as described in 49 CFR 1515.5(h) or 1515.9(h), as applicable; and

(iv) A statement that if the applicant chooses not to appeal TSA's determination within 60 days of receipt of the

Initial Determination, or does not request an extension of time within 60 days of the Initial Determination of Threat Assessment in order to file an appeal, the Initial Determination becomes a Final Determination of Security Threat Assessment.

(4) If the applicant does not appeal the Initial Determination of Threat Assessment or Initial Determination of Threat Assessment and Immediate Revocation, or if TSA does not grant the appeal, TSA serves a Final Determination of Threat Assessment on the individual and the applicant.

(5) If the applicant appeals an Initial Determination of Threat Assessment, the procedures in 49 CFR 1515.5 or 1515.9 apply.

§ 1540.207 [Reserved]

§ 1540.209 Fees for security threat assessment.

This section describes the payment process for completion of the security threat assessments required under this subpart.

(a) *Fees for security threat assessment.*

(1) TSA routinely establishes and collects fees to conduct the security threat assessment process. These fees apply to all entities requesting a security threat assessment. TSA reviews the amount of the fee periodically, at least once every two years, to determine the current cost of conducting security threat assessments. TSA determines fee amounts and any necessary revisions to the fee amounts based on current costs, using a method of analysis consistent with widely accepted accounting principles and practices, and calculated in accordance with the provisions of 31 U.S.C. 9701 and other applicable Federal law.

(2) TSA will publish fee amounts and any revisions to the fee amounts as a notice in the FEDERAL REGISTER.

(b) [Reserved]

(c) *Remittance of fees.* (1) The fees required under this subpart must be remitted to TSA in a form and manner acceptable to TSA each time the applicant or an aircraft operator, foreign air carrier, indirect air carrier, or certified cargo screening facility submits the information required under § 1540.203 or § 1540.207 to TSA.

(2) Fees remitted to TSA under this subpart must be payable to the "Transportation Security Administration" in U.S. currency and drawn on a U.S. bank.

(3) TSA will not issue any fee refunds, unless a fee was paid in error.

[74 FR 47700, Sept. 16, 2009, as amended at 76 FR 51867, Aug. 18, 2011]

Subpart D—Responsibilities of Holders of TSA-Approved Security Programs

SOURCE: 74 FR 47703, Sept. 16, 2009, unless otherwise noted.

§ 1540.301 Withdrawal of approval of a security program.

(a) *Applicability.* This section applies to holders of a security program approved or accepted by TSA under 49 CFR chapter XII, subchapter C.

(b) *Withdrawal of security program approval.* TSA may withdraw the approval of a security program, if TSA determines continued operation is contrary to security and the public interest, as follows:

(1) *Notice of proposed withdrawal of approval.* TSA will serve a Notice of Proposed Withdrawal of Approval, which notifies the holder of the security program, in writing, of the facts, charges, and applicable law, regulation, or order that form the basis of the determination.

(2) *Security program holder's reply.* The holder of the security program may respond to the Notice of Proposed Withdrawal of Approval no later than 15 calendar days after receipt of the withdrawal by providing the designated official, in writing, with any material facts, arguments, applicable law, and regulation.

(3) *TSA review.* The designated official will consider all information available, including any relevant material or information submitted by the holder of the security program, before either issuing a Withdrawal of Approval of the security program or rescinding the Notice of Proposed Withdrawal of Approval. If TSA issues a Withdrawal of

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Approval, it becomes effective upon receipt by the holder of the security program, or 15 calendar days after service, whichever occurs first.

(4) *Petition for reconsideration.* The holder of the security program may petition TSA to reconsider its Withdrawal of Approval by serving a petition for consideration no later than 15 calendar days after the holder of the security program receives the Withdrawal of Approval. The holder of the security program must serve the Petition for Reconsideration on the designated official. Submission of a Petition for Reconsideration will not stay the Withdrawal of Approval. The holder of the security program may request the designated official to stay the Withdrawal of Approval pending review of and decision on the Petition.

(5) *Assistant Secretary's review.* The designated official transmits the Petition together with all pertinent information to the Assistant Secretary for reconsideration. The Assistant Secretary will dispose of the Petition within 15 calendar days of receipt by either directing the designated official to rescind the Withdrawal of Approval or by affirming the Withdrawal of Approval. The decision of the Assistant Secretary constitutes a final agency order subject to judicial review in accordance with 49 U.S.C. 46110.

(6) *Emergency withdrawal.* If TSA finds that there is an emergency with respect to aviation security requiring immediate action that makes the procedures in this section contrary to the public interest, the designated official may issue an Emergency Withdrawal of Approval of a security program without first issuing a Notice of Proposed Withdrawal of Approval. The Emergency Withdrawal would be effective on the date that the holder of the security program receives the emergency withdrawal. In such a case, the designated official will send the holder of the security program a brief statement of the facts, charges, applicable law, regulation, or order that forms the basis for the Emergency Withdrawal. The holder of the security program may submit a Petition for Reconsideration under the procedures in paragraphs (b)(4) through (b)(5) of this section; however, this petition will not

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stay the effective date of the Emergency Withdrawal.

(c) *Service of documents for withdrawal of approval of security program proceedings.* Service may be accomplished by personal delivery, certified mail, or express courier. Documents served on the holder of a security program will be served at its official place of business as designated in its application for approval or its security program. Documents served on TSA must be served to the address noted in the Notice of Withdrawal of Approval or Withdrawal of Approval, whichever is applicable.

(1) *Certificate of service.* An individual may attach a certificate of service to a document tendered for filing. A certificate of service must consist of a statement, dated and signed by the person filing the document, that the document was personally delivered, served by certified mail on a specific date, or served by express courier on a specific date.

(2) *Date of service.* The date of service is—

- (i) The date of personal delivery;
- (ii) If served by certified mail, the mailing date shown on the certificate of service, the date shown on the postmark if there is no certificate of service, or other mailing date shown by other evidence if there is no certificate of service or postmark; or
- (iii) If served by express courier, the service date shown on the certificate of service, or by other evidence if there is no certificate of service.

(d) *Extension of time.* TSA may grant an extension of time to the limits set forth in this section for good cause shown. A security program holder must submit a request for an extension of time in writing, and TSA must receive it at least two days before the due date in order to be considered. TSA may grant itself an extension of time for good cause.

§ 1540.303 [Reserved]

PART 1542—AIRPORT SECURITY

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AUTHORITY: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44907, 44913–44914, 44916–44917, 44935–44936, 44942, 46105.

SOURCE: 67 FR 8355, Feb. 22, 2002, unless otherwise noted.

Subpart A—General

§ 1542.1 Applicability of this part.

This part describes aviation security rules governing:

- (a) The operation of airports regularly serving aircraft operations required to be under a security program under part 1544 of this chapter, as described in this part.
- (b) The operation of airport regularly serving foreign air carrier operations required to be under a security program under part 1546 of this chapter, as described in this part.
- (c) Each airport operator that receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular issued

by the Designated official for Civil Aviation Security.

(d) Each airport operator that does not have a security program under this part that serves an aircraft operator operating under a security program under part 1544 of this chapter, or a foreign air carrier operating under a security program under part 1546 of this chapter. Such airport operators must comply with §1542.5(e).

[67 FR 8355, Feb. 22, 2002, as amended at 71 FR 30509, May 26, 2006]

§ 1542.3 Airport security coordinator.

(a) Each airport operator must designate one or more Airport Security Coordinator(s) (ASC) in its security program.

(b) The airport operator must ensure that one or more ASCs:

(1) Serve as the airport operator’s primary and immediate contact for security-related activities and communications with TSA. Any individual designated as an ASC may perform other duties in addition to those described in this paragraph (b).

(2) Is available to TSA on a 24-hour basis.

(3) Review with sufficient frequency all security-related functions to ensure that all are effective and in compliance with this part, its security program, and applicable Security Directives.

(4) Immediately initiate corrective action for any instance of non-compliance with this part, its security program, and applicable Security Directives.

(5) Review and control the results of employment history, verification, and criminal history records checks required under §1542.209.

(6) Serve as the contact to receive notification from individuals applying for unescorted access of their intent to seek correction of their criminal history record with the FBI.

(c) After July 17, 2003, no airport operator may use, nor may it designate any person as, an ASC unless that individual has completed subject matter training, as specified in its security program, to prepare the individual to assume the duties of the position. The airport operator must maintain ASC training documentation until at least

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180 days after the withdrawal of an individual's designation as an ASC.

(d) An individual's satisfactory completion of initial ASC training required under paragraph (c) of this section satisfies that requirement for all future ASC designations for that individual, except for site specific information, unless there has been a two or more year break in service as an active and designated ASC.

§ 1542.5 Inspection authority.

(a) Each airport operator must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

(1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each airport operator must provide evidence of compliance with this part and its airport security program, including copies of records.

(c) TSA may enter and be present within secured areas, AOA's, and SIDA's without access media or identification media issued or approved by an airport operator or aircraft operator, in order to inspect or test compliance, or perform other such duties as TSA may direct.

(d) At the request of TSA and upon the completion of SIDA training as required in a security program, each airport operator promptly must issue to TSA personnel access and identification media to provide TSA personnel with unescorted access to, and movement within, secured areas, AOA's, and SIDA's.

(e) TSA may enter and be present at an airport that does not have a security program under this part, without access media or identification media issued or approved by an airport operator or aircraft operator, to inspect an aircraft operator operating under a security program under part 1544 of this chapter, or a foreign air carrier oper-

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ating under a security program under part 1546 of this chapter.

[67 FR 8355, Feb. 22, 2002, as amended at 71 FR 30509, May 26, 2006]

Subpart B—Airport Security Program

§ 1542.101 General requirements.

(a) No person may operate an airport subject to § 1542.103 unless it adopts and carries out a security program that—

(1) Provides for the safety and security of persons and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence, aircraft piracy, and the introduction of an unauthorized weapon, explosive, or incendiary onto an aircraft;

(2) Is in writing and is signed by the airport operator;

(3) Includes the applicable items listed in § 1542.103;

(4) Includes an index organized in the same subject area sequence as § 1542.103; and

(5) Has been approved by TSA.

(b) Each airport operator subject to § 1542.103 must maintain one current and complete copy of its security program and provide a copy to TSA upon request.

(c) Each airport operator subject to § 1542.103 must—

(1) Restrict the distribution, disclosure, and availability of sensitive security information (SSI), as defined in part 1520 of this chapter, to persons with a need to know; and

(2) Refer all requests for SSI by other persons to TSA.

[67 FR 8355, Feb. 22, 2002, as amended at 71 FR 30509, May 26, 2006]

§ 1542.103 Content.

(a) *Complete program.* Except as otherwise approved by TSA, each airport operator regularly serving operations of an aircraft operator or foreign air carrier described in § 1544.101(a)(1) or § 1546.101(a) of this chapter, must include in its security program the following:

(1) The name, means of contact, duties, and training requirements of the ASC required under § 1542.3.

(2) [Reserved]

(3) A description of the secured areas, including—

(i) A description and map detailing boundaries and pertinent features;

(ii) Each activity or entity on, or adjacent to, a secured area that affects security;

(iii) Measures used to perform the access control functions required under § 1542.201(b)(1);

(iv) Procedures to control movement within the secured area, including identification media required under § 1542.201(b)(3); and

(v) A description of the notification signs required under § 1542.201(b)(6).

(4) A description of the AOA, including—

(i) A description and map detailing boundaries, and pertinent features;

(ii) Each activity or entity on, or adjacent to, an AOA that affects security;

(iii) Measures used to perform the access control functions required under § 1542.203(b)(1);

(iv) Measures to control movement within the AOA, including identification media as appropriate; and

(v) A description of the notification signs required under § 1542.203(b)(4).

(5) A description of the SIDA's, including—

(i) A description and map detailing boundaries and pertinent features; and

(ii) Each activity or entity on, or adjacent to, a SIDA.

(6) A description of the sterile areas, including—

(i) A diagram with dimensions detailing boundaries and pertinent features;

(ii) Access controls to be used when the passenger-screening checkpoint is non-operational and the entity responsible for that access control; and

(iii) Measures used to control access as specified in § 1542.207.

(7) Procedures used to comply with § 1542.209 regarding fingerprint-based criminal history records checks.

(8) A description of the personnel identification systems as described in § 1542.211.

(9) Escort procedures in accordance with § 1542.211(e).

(10) Challenge procedures in accordance with § 1542.211(d).

(11) Training programs required under §§ 1542.213 and 1542.217(c)(2), if applicable.

(12) A description of law enforcement support used to comply with § 1542.215(a).

(13) A system for maintaining the records described in § 1542.221.

(14) The procedures and a description of facilities and equipment used to support TSA inspection of individuals and property, and aircraft operator or foreign air carrier screening functions of parts 1544 and 1546 of this chapter.

(15) A contingency plan required under § 1542.301.

(16) Procedures for the distribution, storage, and disposal of security programs, Security Directives, Information Circulars, implementing instructions, and, as appropriate, classified information.

(17) Procedures for posting of public advisories as specified in § 1542.305.

(18) Incident management procedures used to comply with § 1542.307.

(19) Alternate security procedures, if any, that the airport operator intends to use in the event of natural disasters, and other emergency or unusual conditions.

(20) Each exclusive area agreement as specified in § 1542.111.

(21) Each airport tenant security program as specified in § 1542.113.

(b) *Supporting program.* Except as otherwise approved by TSA, each airport regularly serving operations of an aircraft operator or foreign air carrier described in § 1544.101(a)(2) or (f), or § 1546.101(b) or (c) of this chapter, must include in its security program a description of the following:

(1) Name, means of contact, duties, and training requirements of the ASC, as required under § 1542.3.

(2) A description of the law enforcement support used to comply with § 1542.215(a).

(3) Training program for law enforcement personnel required under § 1542.217(c)(2), if applicable.

(4) A system for maintaining the records described in § 1542.221.

(5) The contingency plan required under § 1542.301.

(6) Procedures for the distribution, storage, and disposal of security programs, Security Directives, Information Circulars, implementing instructions, and, as appropriate, classified information.

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(7) Procedures for public advisories as specified in § 1542.305.

(8) Incident management procedures used to comply with § 1542.307.

(c) *Partial program.* Except as otherwise approved by TSA, each airport regularly serving operations of an aircraft operator or foreign air carrier described in § 1544.101(b) or § 1546.101(d) of this chapter, must include in its security program a description of the following:

(1) Name, means of contact, duties, and training requirements of the ASC as required under § 1542.3.

(2) A description of the law enforcement support used to comply with § 1542.215(b).

(3) Training program for law enforcement personnel required under § 1542.217(c)(2), if applicable.

(4) A system for maintaining the records described in § 1542.221.

(5) Procedures for the distribution, storage, and disposal of security programs, Security Directives, Information Circulars, implementing instructions, and, as appropriate, classified information.

(6) Procedures for public advisories as specified in § 1542.305.

(7) Incident management procedures used to comply with § 1542.307.

(d) *Use of appendices.* The airport operator may comply with paragraphs (a), (b), and (c) of this section by including in its security program, as an appendix, any document that contains the information required by paragraphs (a), (b), and (c) of this section. The appendix must be referenced in the corresponding section(s) of the security program.

§ 1542.105 Approval and amendments.

(a) *Initial approval of security program.* Unless otherwise authorized by the designated official, each airport operator required to have a security program under this part must submit its initial proposed security program to the designated official for approval at least 90 days before the date any aircraft operator or foreign air carrier required to have a security program under part 1544 or part 1546 of this chapter is expected to begin operations. Such requests will be processed as follows:

(1) The designated official, within 30 days after receiving the proposed security program, will either approve the program or give the airport operator written notice to modify the program to comply with the applicable requirements of this part.

(2) The airport operator may either submit a modified security program to the designated official for approval, or petition the Administrator to reconsider the notice to modify within 30 days of receiving a notice to modify. A petition for reconsideration must be filed with the designated official.

(3) The designated official, upon receipt of a petition for reconsideration, either amends or withdraws the notice, or transmits the petition, together with any pertinent information, to the Administrator for reconsideration. The Administrator disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the notice to modify, or by affirming the notice to modify.

(b) *Amendment requested by an airport operator.* Except as provided in § 1542.103(c), an airport operator may submit a request to the designated official to amend its security program, as follows:

(1) The request for an amendment must be filed with the designated official at least 45 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to a security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 30 days after receiving a denial, the airport operator may petition the Administrator to reconsider the denial.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition within 30

days of receipt, together with any pertinent information, to the Administrator for reconsideration. The Administrator disposes of the petition within 30 days of receipt by either directing the designated official to approve the amendment or affirming the denial.

(c) *Amendment by TSA.* If safety and the public interest require an amendment, the designated official may amend a security program as follows:

(1) The designated official sends to the airport operator a notice, in writing, of the proposed amendment, fixing a period of not less than 30 days within which the airport operator may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the airport operator of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 days after the airport operator receives the notice of amendment, unless the airport operator petitions the Administrator to reconsider no later than 15 days before the effective date of the amendment. The airport operator must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice, or transmits the petition, together with any pertinent information to the Administrator for reconsideration. The Administrator disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* Notwithstanding paragraph (c) of this section, if the designated official finds that there is an emergency requiring immediate action with respect to safety and security in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, effective without stay on the date the airport operator receives the notice of it. In such a case, the designated official must incorporate in the notice a brief statement

of the reasons and findings for the amendment to be adopted. The airport operator may file a petition for reconsideration under paragraph (c) of this section; however, this does not stay the effective date of the emergency amendment.

§ 1542.107 Changed conditions affecting security.

(a) After approval of the security program, each airport operator must notify TSA when changes have occurred to the—

(1) Measures, training, area descriptions, or staffing, described in the security program;

(2) Operations of an aircraft operator or foreign air carrier that would require modifications to the security program as required under § 1542.103; or

(3) Layout or physical structure of any area under the control of the airport operator, airport tenant, aircraft operator, or foreign air carrier used to support the screening process, access, presence, or movement control functions required under part 1542, 1544, or 1546 of this chapter.

(b) Each airport operator must notify TSA no more than 6 hours after the discovery of any changed condition described in paragraph (a) of this section, or within the time specified in its security program, of the discovery of any changed condition described in paragraph (a) of this section. The airport operator must inform TSA of each interim measure being taken to maintain adequate security until an appropriate amendment to the security program is approved. Each interim measure must be acceptable to TSA.

(c) For changed conditions expected to be less than 60 days duration, each airport operator must forward the information required in paragraph (b) of this section in writing to TSA within 72 hours of the original notification of the change condition(s). TSA will notify the airport operator of the disposition of the notification in writing. If approved by TSA, this written notification becomes a part of the airport security program for the duration of the changed condition(s).

(d) For changed conditions expected to be 60 days or more duration, each

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airport operator must forward the information required in paragraph (b) of this section in the form of a proposed amendment to the airport operator's security program, as required under § 1542.105. The request for an amendment must be made within 30 days of the discovery of the changed condition(s). TSA will respond to the request in accordance with § 1542.105.

§ 1542.109 Alternate means of compliance.

If in TSA's judgment, the overall safety and security of the airport, and aircraft operator or foreign carrier operations are not diminished, TSA may approve a security program that provides for the use of alternate measures. Such a program may be considered only for an operator of an airport at which service by aircraft operators or foreign air carriers under part 1544 or 1546 of this chapter is determined by TSA to be seasonal or infrequent.

§ 1542.111 Exclusive area agreements.

(a) TSA may approve an amendment to an airport security program under which an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter assumes responsibility for specified security measures for all or portions of the secured area, AOA, or SIDA, including access points, as provided in § 1542.201, § 1542.203, or § 1542.205. The assumption of responsibility must be exclusive to one aircraft operator or foreign air carrier, and shared responsibility among aircraft operators or foreign air carriers is not permitted for an exclusive area.

(b) An exclusive area agreement must be in writing, signed by the airport operator and aircraft operator or foreign air carrier, and maintained in the airport security program. This agreement must contain the following:

(1) A description, a map, and, where appropriate, a diagram of the boundaries and pertinent features of each area, including individual access points, over which the aircraft operator or foreign air carrier will exercise exclusive security responsibility.

(2) A description of the measures used by the aircraft operator or foreign

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air carrier to comply with § 1542.201, § 1542.203, or § 1542.205, as appropriate.

(3) Procedures by which the aircraft operator or foreign air carrier will immediately notify the airport operator and provide for alternative security measures when there are changed conditions as described in § 1542.103(a).

(c) Any exclusive area agreements in effect on November 14, 2001, must meet the requirements of this section and § 1544.227 no later than November 14, 2002.

§ 1542.113 Airport tenant security programs.

(a) TSA may approve an airport tenant security program as follows:

(1) The tenant must assume responsibility for specified security measures of the secured area, AOA, or SIDA as provided in §§ 1542.201, 1542.203, and 1542.205.

(2) The tenant may not assume responsibility for law enforcement support under § 1542.215.

(3) The tenant must assume the responsibility within the tenant's leased areas or areas designated for the tenant's exclusive use. A tenant may not assume responsibility under a tenant security program for the airport passenger terminal.

(4) Responsibility must be exclusive to one tenant, and shared responsibility among tenants is not permitted.

(5) TSA must find that the tenant is able and willing to carry out the airport tenant security program.

(b) An airport tenant security program must be in writing, signed by the airport operator and the airport tenant, and maintained in the airport security program. The airport tenant security program must include the following:

(1) A description and a map of the boundaries and pertinent features of each area over which the airport tenant will exercise security responsibilities.

(2) A description of the measures the airport tenant has assumed.

(3) Measures by which the airport operator will monitor and audit the tenant's compliance with the security program.

(4) Monetary and other penalties to which the tenant may be subject if it

fails to carry out the airport tenant security program.

(5) Circumstances under which the airport operator will terminate the airport tenant security program for cause.

(6) A provision acknowledging that the tenant is subject to inspection by TSA in accordance with §1542.5.

(7) A provision acknowledging that individuals who carry out the tenant security program are contracted to or acting for the airport operator and are required to protect sensitive information in accordance with part 1520 of this chapter, and may be subject to civil penalties for failing to protect sensitive security information.

(8) Procedures by which the tenant will immediately notify the airport operator of and provide for alternative security measures for changed conditions as described in §1542.103(a).

(c) If TSA has approved an airport tenant security program, the airport operator may not be found to be in violation of a requirement of this part in any case in which the airport operator demonstrates that:

(1) The tenant or an employee, permittee, or invitee of the tenant, is responsible for such violation; and

(2) The airport operator has complied with all measures in its security program to ensure the tenant has complied with the airport tenant security program.

(d) TSA may amend or terminate an airport tenant security program in accordance with §1542.105.

Subpart C—Operations

§ 1542.201 Security of the secured area.

(a) Each airport operator required to have a security program under §1542.103(a) must establish at least one secured area.

(b) Each airport operator required to establish a secured area must prevent and detect the unauthorized entry, presence, and movement of individuals and ground vehicles into and within the secured area by doing the following:

(1) Establish and carry out measures for controlling entry to secured areas of the airport in accordance with §1542.207.

(2) Provide for detection of, and response to, each unauthorized presence or movement in, or attempted entry to, the secured area by an individual whose access is not authorized in accordance with its security program.

(3) Establish and carry out a personnel identification system described under §1542.211.

(4) Subject each individual to employment history verification as described in §1542.209 before authorizing unescorted access to a secured area.

(5) Train each individual before granting unescorted access to the secured area, as required in §1542.213(b).

(6) Post signs at secured area access points and on the perimeter that provide warning of the prohibition against unauthorized entry. Signs must be posted by each airport operator in accordance with its security program not later than November 14, 2003.

§ 1542.203 Security of the air operations area (AOA).

(a) Each airport operator required to have a security program under §1542.103(a) must establish an AOA, unless the entire area is designated as a secured area.

(b) Each airport operator required to establish an AOA must prevent and detect the unauthorized entry, presence, and movement of individuals and ground vehicles into or within the AOA by doing the following:

(1) Establish and carry out measures for controlling entry to the AOA of the airport in accordance with §1542.207.

(2) Provide for detection of, and response to, each unauthorized presence or movement in, or attempted entry to, the AOA by an individual whose access is not authorized in accordance with its security program.

(3) Provide security information as described in §1542.213(c) to each individual with unescorted access to the AOA.

(4) Post signs on AOA access points and perimeters that provide warning of the prohibition against unauthorized entry to the AOA. Signs must be posted by each airport operator in accordance with its security program not later than November 14, 2003.

(5) If approved by TSA, the airport operator may designate all or portions

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of its AOA as a SIDA, or may use another personnel identification system, as part of its means of meeting the requirements of this section. If it uses another personnel identification system, the media must be clearly distinguishable from those used in the secured area and SIDA.

§ 1542.205 Security of the security identification display area (SIDA).

(a) Each airport operator required to have a complete program under § 1542.103(a) must establish at least one SIDA, as follows:

(1) Each secured area must be a SIDA.

(2) Each part of the air operations area that is regularly used to load cargo on, or unload cargo from, an aircraft that is operated under a full program or a full all-cargo program as provided in § 1544.101(a) or (h) of this chapter, or a foreign air carrier under a security program as provided in § 1546.101(a), (b), or (e), must be a SIDA.

(3) Each area on an airport where cargo is present after an aircraft operator operating under a full program or a full all-cargo program under § 1544.101(a) or (h) of this chapter, or a foreign air carrier operating under a security program under § 1546.101(a), (b), or (e) of this chapter, or an indirect air carrier, accepts it must be a SIDA. This includes areas such as: Cargo facilities; loading and unloading vehicle docks; and areas where an aircraft operator, foreign air carrier, or indirect air carrier sorts, stores, stages, consolidates, processes, screens, or transfers cargo.

(4) Other areas of the airport may be SIDAs.

(b) Each airport operator required to establish a SIDA must establish and carry out measures to prevent the unauthorized presence and movement of individuals in the SIDA and must do the following:

(1) Establish and carry out a personnel identification system described under § 1542.211.

(2) Subject each individual to a criminal history records check as described in § 1542.209 before authorizing unescorted access to the SIDA.

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(3) Train each individual before granting unescorted access to the SIDA, as required in § 1542.213(b).

(c) An airport operator that is not required to have a complete program under § 1542.103(a) is not required to establish a SIDA under this section.

[67 FR 8355, Feb. 22, 2002, as amended at 71 FR 30509, May 26, 2006]

§ 1542.207 Access control systems.

(a) *Secured area.* Except as provided in paragraph (b) of this section, the measures for controlling entry to the secured area required under § 1542.201(b)(1) must—

(1) Ensure that only those individuals authorized to have unescorted access to the secured area are able to gain entry;

(2) Ensure that an individual is immediately denied entry to a secured area when that person's access authority for that area is withdrawn; and

(3) Provide a means to differentiate between individuals authorized to have access to an entire secured area and individuals authorized access to only a particular portion of a secured area.

(b) *Alternative systems.* TSA may approve an amendment to a security program that provides alternative measures that provide an overall level of security equal to that which would be provided by the measures described in paragraph (a) of this section.

(c) *Air operations area.* The measures for controlling entry to the AOA required under § 1542.203(b)(1) must incorporate accountability procedures to maintain their integrity.

(d) *Secondary access media.* An airport operator may issue a second access medium to an individual who has unescorted access to secured areas or the AOA, but is temporarily not in possession of the original access medium, if the airport operator follows measures and procedures in the security program that—

(1) Verifies the authorization of the individual to have unescorted access to secured areas or AOA;

(2) Restricts the time period of entry with the second access medium;

(3) Retrieves the second access medium when expired;

(4) Deactivates or invalidates the original access medium until the individual returns the second access medium; and

(5) Provides that any second access media that is also used as identification media meet the criteria of §1542.211(b).

§ 1542.209 Fingerprint-based criminal history records checks (CHRC).

(a) *Scope.* The following persons are within the scope of this section—

(1) Each airport operator and airport user.

(2) Each individual currently having unescorted access to a SIDA, and each individual with authority to authorize others to have unescorted access to a SIDA (referred to as unescorted access authority).

(3) Each individual seeking unescorted access authority.

(4) Each airport user and aircraft operator making a certification to an airport operator pursuant to paragraph (n) of this section, or 14 CFR 108.31(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001). An airport user, for the purposes of this section only, is any person other than an aircraft operator subject to §1544.229 of this chapter making a certification under this section.

(b) *Individuals seeking unescorted access authority.* Except as provided in paragraph (m) of this section, each airport operator must ensure that no individual is granted unescorted access authority unless the individual has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in paragraph (d) of this section.

(c) *Individuals who have not had a CHRC.* (1) Except as provided in paragraph (m) of this section, each airport operator must ensure that after December 6, 2002, no individual retains unescorted access authority, unless the airport operator has obtained and submitted a fingerprint under this part.

(2) When a CHRC discloses a disqualifying criminal offense for which the conviction or finding of not guilty by reason of insanity was on or after December 6, 1991, the airport operator

must immediately suspend that individual's authority.

(d) *Disqualifying criminal offenses.* An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty of by reason of insanity, of any of the disqualifying crimes listed in this paragraph (d) in any jurisdiction during the 10 years before the date of the individual's application for unescorted access authority, or while the individual has unescorted access authority. The disqualifying criminal offenses are as follows—

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U.S.C. 46306.

(2) Interference with air navigation; 49 U.S.C. 46308.

(3) Improper transportation of a hazardous material; 49 U.S.C. 46312.

(4) Aircraft piracy; 49 U.S.C. 46502.

(5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.

(6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.

(7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.

(8) Conveying false information and threats; 49 U.S.C. 46507.

(9) Aircraft piracy outside the special aircraft jurisdiction of the United States; 49 U.S.C. 46502(b).

(10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.

(11) 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.

(12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.

(13) Murder.

(14) Assault with intent to murder.

(15) Espionage.

(16) Sedition.

(17) Kidnapping or hostage taking.

(18) Treason.

(19) Rape or aggravated sexual abuse.

(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.

(21) Extortion.

(22) Armed or felony unarmed robbery.

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(23) Distribution of, or intent to distribute, a controlled substance.

(24) Felony arson.

(25) Felony involving a threat.

(26) Felony involving—

(i) Willful destruction of property;

(ii) Importation or manufacture of a controlled substance;

(iii) Burglary;

(iv) Theft;

(v) Dishonesty, fraud, or misrepresentation;

(vi) Possession or distribution of stolen property;

(vii) Aggravated assault;

(viii) Bribery; or

(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.

(27) Violence at international airports; 18 U.S.C. 37.

(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph (d).

(e) *Fingerprint application and processing.* (1) At the time of fingerprinting, the airport operator must provide the individual to be fingerprinted a fingerprint application that includes only the following—

(i) The disqualifying criminal offenses described in paragraph (d) of this section.

(ii) A statement that the individual signing the application does not have a disqualifying criminal offense.

(iii) A statement informing the individual that Federal regulations under 49 CFR 1542.209 (1) impose a continuing obligation to disclose to the airport operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while he or she has unescorted access authority. After February 17, 2002, the airport operator may use statements that have already been printed referring to 14 CFR 107.209 until stocks of such statements are used up.

(iv) A statement reading, “The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. (See section 1001 of Title 18 United States Code.)”

(v) A line for the printed name of the individual.

(vi) A line for the individual’s signature and date of signature.

(2) Each individual must complete and sign the application prior to submitting his or her fingerprints.

(3) The airport operator must verify the identity of the individual through two forms of identification prior to fingerprinting, and ensure that the printed name on the fingerprint application is legible. At least one of the two forms of identification must have been issued by a government authority, and at least one must include a photo.

(4) The airport operator must advise the individual that:

(i) A copy of the criminal record received from the FBI will be provided to the individual, if requested by the individual in writing; and

(ii) The ASC is the individual’s point of contact if he or she has questions about the results of the CHRC.

(5) The airport operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation of the airport operator or a law enforcement officer.

(6) Fingerprints may be obtained and processed electronically, or recorded on fingerprint cards approved by the FBI and distributed by TSA for that purpose.

(7) The fingerprint submission must be forwarded to TSA in the manner specified by TSA.

(f) *Fingerprinting fees.* Airport operators must pay for all fingerprints in a form and manner approved by TSA. The payment must be made at the designated rate (available from the local TSA security office) for each set of fingerprints submitted. Information about payment options is available through the designated TSA headquarters point of contact. Individual personal checks are not acceptable.

(g) *Determination of arrest status.* (1) When a CHRC on an individual seeking unescorted access authority discloses an arrest for any disqualifying criminal offense listed in paragraph (d) of this section without indicating a disposition, the airport operator must determine, after investigation, that the arrest did not result in a disqualifying offense before granting that authority.

If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(2) When a CHRC on an individual with unescorted access authority discloses an arrest for any disqualifying criminal offense without indicating a disposition, the airport operator must suspend the individual's unescorted access authority not later than 45 days after obtaining the CHRC unless the airport operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(3) The airport operator may only make the determinations required in paragraphs (g)(1) and (g)(2) of this section for individuals for whom it is issuing, or has issued, unescorted access authority, and who are not covered by a certification from an aircraft operator under paragraph (n) of this section. The airport operator may not make determinations for individuals described in § 1544.229 of this chapter.

(h) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny unescorted access authority to an individual described in paragraph (b) of this section, the airport operator must advise him or her that the FBI criminal record discloses information that would disqualify him or her from receiving or retaining unescorted access authority and provide the individual with a copy of the FBI record if he or she requests it.

(2) The airport operator must notify an individual that a final decision has been made to grant or deny unescorted access authority.

(3) Immediately following the suspension of unescorted access authority of an individual, the airport operator must advise him or her that the FBI criminal record discloses information that disqualifies him or her from re-

taining unescorted access authority and provide the individual with a copy of the FBI record if he or she requests it.

(i) *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 or her record, subject to the following conditions—

(1) For an individual seeking unescorted access authority on or after December 6, 2001, the following applies:

(i) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to granting unescorted access authority.

(ii) If no notification, as described in paragraph (h)(1) of this section, is received within 30 days, the airport operator may make a final determination to deny unescorted access authority.

(2) For an individual with unescorted access authority before December 6, 2001, the following applies: Within 30 days after being advised of suspension because the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to reinstating unescorted access authority.

(j) *Limits on dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section and § 1544.229 of this chapter. No person may disseminate the results of a CHRC to anyone other than:

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

(2) Officials of other airport operators who are determining whether to grant unescorted access to the individual under this part.

(3) Aircraft operators who are determining whether to grant unescorted access to the individual or authorize the individual to perform screening functions under part 1544 of this chapter.

(4) Others designated by TSA.

(k) *Recordkeeping.* The airport operator must maintain the following information:

(1) *Investigations conducted before December 6, 2001.* The airport operator must maintain and control the access or employment history investigation files, including the criminal history records results portion, or the appropriate certifications, for investigations conducted before December 6, 2001.

(2) *Fingerprint application process on or after December 6, 2001.* Except when the airport operator has received a certification under paragraph (n) of this section, the airport operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct airport operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(3) *Certification on or after December 6, 2001.* The airport operator must maintain the certifications provided under paragraph (n) of this section.

(4) *Protection of records—all investigations.* The records required by this section must be maintained in a manner that is acceptable to TSA and in a manner that protects the confidentiality of the individual.

(5) *Duration—all investigations.* The records identified in this section with regard to an individual must be maintained until 180 days after the termination of the individual's unescorted access authority. When files are no longer maintained, the criminal record must be destroyed.

(1) *Continuing responsibilities.* (1) Each individual with unescorted access authority on December 6, 2001, who had a disqualifying criminal offense in paragraph (d) of this section on or after December 6, 1991, must, by January 7, 2002, report the conviction to the air-

port operator and surrender the SIDA access medium to the issuer.

(2) Each individual with unescorted access authority who has a disqualifying criminal offense must report the offense to the airport operator and surrender the SIDA access medium to the issuer within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(3) If information becomes available to the airport operator or the airport user indicating that an individual with unescorted access authority has a disqualifying criminal offense, the airport operator must determine the status of the conviction. If a disqualifying offense is confirmed the airport operator must immediately revoke any unescorted access authority.

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

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

(2) Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access authority:

(i) An individual who has been continuously employed in a position requiring unescorted access authority by another airport operator, airport user, or aircraft operator, or contractor to such an entity, provided the grant for his or her unescorted access authority was based upon a fingerprint-based CHRC through TSA or FAA.

(ii) An individual who has been continuously employed by an aircraft operator or aircraft operator contractor, in a position with authority to perform screening functions, provided the grant for his or her authority to perform screening functions was based upon a fingerprint-based CHRC through TSA or FAA.

(n) *Certifications by aircraft operators.* An airport operator is in compliance with its obligation under paragraph (b) or (c) of this section when the airport operator accepts, for each individual

seeking unescorted access authority, certification from an aircraft operator subject to part 1544 of this chapter indicating it has complied with §1544.229 of this chapter for the aircraft operator's employees and contractors seeking unescorted access authority. If the airport operator accepts a certification from the aircraft operator, the airport operator may not require the aircraft operator to provide a copy of the CHRC.

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

(1) Designate the ASC, in the security program, or a direct employee if the ASC is not a direct employee, to be responsible for maintaining, controlling, and destroying the criminal record files when their maintenance is no longer required by paragraph (k) of this section.

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

(3) Audit the employment history investigations performed by the airport operator in accordance with this section and 14 CFR 107.31 in effect prior to November 14, 2001 (see 14 CFR Parts 60 through 139 revised as of January 1, 2001), and those investigations conducted by the airport users who provided certification to the airport operator. The audit program must be set forth in the airport security program.

(p) *Airport user responsibility.* (1) The airport user must report to the airport operator information, as it becomes available, that indicates an individual with unescorted access authority may have a disqualifying criminal offense.

(2) The airport user must maintain and control, in compliance with paragraph (k) of this section, the employment history investigation files for investigations conducted before December 6, 2001, unless the airport operator decides to maintain and control the employment history investigation file.

(3) The airport user must provide the airport operator with either the name or title of the individual acting as custodian of the files described in this paragraph (p), the address of the location where the files are maintained,

and the phone number of that location. The airport user must provide the airport operator and TSA with access to these files.

§ 1542.211 Identification systems.

(a) *Personnel identification system.* The personnel identification system under §§1542.201(b)(3) and 1542.205(b)(1) must include the following:

(1) Personnel identification media that—

(i) Convey a full-face image, full name, employer, and identification number of the individual to whom the identification medium is issued;

(ii) Indicate clearly the scope of the individual's access and movement privileges;

(iii) Indicate clearly an expiration date; and

(iv) Are of sufficient size and appearance as to be readily observable for challenge purposes.

(2) Procedures to ensure that each individual in the secured area or SIDA continuously displays the identification medium issued to that individual on the outermost garment above waist level, or is under escort.

(3) Procedures to ensure accountability through the following:

(i) Retrieving expired identification media and media of persons who no longer have unescorted access authority.

(ii) Reporting lost or stolen identification media.

(iii) Securing unissued identification media stock and supplies.

(iv) Auditing the system at a minimum of once a year or sooner, as necessary, to ensure the integrity and accountability of all identification media.

(v) As specified in the security program, revalidate the identification system or reissue identification media if a portion of all issued, unexpired identification media are lost, stolen, or otherwise unaccounted for, including identification media that are combined with access media.

(vi) Ensure that only one identification medium is issued to an individual at a time, except for personnel who are employed with more than one company and require additional identification media to carry out employment duties.

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A replacement identification medium may only be issued if an individual declares in writing that the medium has been lost, stolen, or destroyed.

(b) *Temporary identification media.* Each airport operator may issue personnel identification media in accordance with its security program to persons whose duties are expected to be temporary. The temporary identification media system must include procedures and methods to—

(1) Retrieve temporary identification media;

(2) Authorize the use of a temporary media for a limited time only;

(3) Ensure that temporary media are distinct from other identification media and clearly display an expiration date; and

(4) Ensure that any identification media also being used as an access media meet the criteria of § 1542.207(d).

(c) *Airport-approved identification media.* TSA may approve an amendment to the airport security program that provides for the use of identification media meeting the criteria of this section that are issued by entities other than the airport operator, as described in the security program.

(d) *Challenge program.* Each airport operator must establish and carry out a challenge program that requires each individual who has authorized unescorted access to secured areas and SIDA's to ascertain the authority of any individual who is not displaying an identification medium authorizing the individual to be present in the area. The challenge program must include procedures to challenge individuals not displaying airport approved identification media. The procedure must—

(1) Apply uniformly in secured areas, SIDAs, and exclusive areas;

(2) Describe how to challenge an individual directly or report any individual not visibly displaying an authorized identification medium, including procedures to notify the appropriate authority; and

(3) Describe support of challenge procedures, including law enforcement and any other responses to reports of individuals not displaying authorized identification media.

(e) *Escorting.* Each airport operator must establish and implement proce-

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dures for escorting individuals who do not have unescorted access authority to a secured area or SIDA that—

(1) Ensure that only individuals with unescorted access authority are permitted to escort;

(2) Ensure that the escorted individuals are continuously accompanied or monitored while within the secured area or SIDA in a manner sufficient to identify whether the escorted individual is engaged in activities other than those for which escorted access was granted, and to take action in accordance with the airport security program;

(3) Identify what action is to be taken by the escort, or other authorized individual, should individuals under escort engage in activities other than those for which access was granted;

(4) Prescribe law enforcement support for escort procedures; and

(5) Ensure that individuals escorted into a sterile area without being screened under § 1544.201 of this chapter remain under escort until they exit the sterile area, or submit to screening pursuant to § 1544.201 or § 1546.201 of this chapter.

(f) *Effective date.* The identification systems described in this section must be implemented by each airport operator not later than November 14, 2003.

§ 1542.213 Training.

(a) Each airport operator must ensure that individuals performing security-related functions for the airport operator are briefed on the provisions of this part, Security Directives, and Information Circulars, and the security program, to the extent that such individuals need to know in order to perform their duties.

(b) An airport operator may not authorize any individual unescorted access to the secured area or SIDA, except as provided in § 1542.5, unless that individual has successfully completed training in accordance with TSA-approved curriculum specified in the security program. This curriculum must detail the methods of instruction, provide attendees with an opportunity to ask questions, and include at least the following topics—

(1) The unescorted access authority of the individual to enter and be present in various areas of the airport;

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

(3) Escort and challenge procedures and the law enforcement support for these procedures;

(4) Security responsibilities as specified in §1540.105;

(5) Restrictions on divulging sensitive security information as described in part 1520 of this chapter; and

(6) Any other topics specified in the security program.

(c) An airport operator may not authorize any individual unescorted access to the AOA, except as provided in §1542.5, unless that individual has been provided information in accordance with the security program, including—

(1) The unescorted access authority of the individual to enter and be present in various areas of the airport;

(2) Control, use, and display of airport-approved access and identification media, if appropriate;

(3) Escort and challenge procedures and the law enforcement support for these procedures, where applicable;

(4) Security responsibilities as specified in §1540.105;

(5) Restrictions on divulging sensitive security information as described in part 1520 of this chapter; and

(6) Any other topics specified in the security program.

(d) Each airport operator must maintain a record of all training and information given to each individual under paragraphs (b) and (c) of this section for 180 days after the termination of that person's unescorted access authority.

(e) As to persons with unescorted access to the SIDA on November 14, 2001, training on responsibility under §1540.105 can be provided by making relevant security information available.

(f) Training described in paragraph (c) of this section must be implemented by each airport operator not later than November 14, 2002.

§ 1542.215 Law enforcement support.

(a) In accordance with §1542.217, each airport operator required to have a se-

curity program under §1542.103(a) or (b) must provide:

(1) Law enforcement personnel in the number and manner adequate to support its security program.

(2) Uniformed law enforcement personnel in the number and manner adequate to support each system for screening persons and accessible property required under part 1544 or 1546 of this chapter, except to the extent that TSA provides Federal law enforcement support for the system.

(b) Each airport required to have a security program under §1542.103(c) must ensure that:

(1) Law enforcement personnel are available and committed to respond to an incident in support of a civil aviation security program when requested by an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter.

(2) The procedures by which to request law enforcement support are provided to each aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter.

§ 1542.217 Law enforcement personnel.

(a) Each airport operator must ensure that law enforcement personnel used to meet the requirements of §1542.215, meet the following qualifications while on duty at the airport—

(1) Have arrest authority described in paragraph (b) of this section;

(2) Are identifiable by appropriate indicia of authority;

(3) Are armed with a firearm and authorized to use it; and

(4) Have completed a training program that meets the requirements of paragraphs (c) and (d) of this section.

(b) Each airport operator must ensure that each individual used to meet the requirements of §1542.215 have the authority to arrest, with or without a warrant, while on duty at the airport 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 presence of the individual; and

(2) A felony, when the individual has reason to believe that the suspect has committed it.

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(c) The training program required by paragraph (a)(4) of this section must—

(1) Meet the training standard for law enforcement officers prescribed by either the State or local jurisdiction in which the airport is located for law enforcement officers performing comparable functions.

(2) Specify and require training standards for private law enforcement personnel acceptable to TSA, if the State and local jurisdictions in which the airport is located do not prescribe training standards for private law enforcement personnel that meets the standards in paragraph (a) of this section.

(3) Include training in—

(i) The use of firearms;

(ii) The courteous and efficient treatment of persons subject to inspection, detention, search, arrest, and other aviation security activities;

(iii) The responsibilities of law enforcement personnel under the security program; and

(iv) Any other subject TSA determines is necessary.

(d) Each airport operator must document the training program required by paragraph (a)(4) of this section and maintain documentation of training at a location specified in the security program until 180 days after the departure or removal of each person providing law enforcement support at the airport.

§ 1542.219 Supplementing law enforcement personnel.

(a) When TSA decides, after being notified by an airport operator as prescribed in this section, that not enough qualified State, local, and private law enforcement personnel are available to carry out the requirements of § 1542.215, TSA may authorize the airport operator to use, on a reimbursable basis, personnel employed by TSA, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality to supplement State, local, and private law enforcement personnel.

(b) Each request for the use of Federal personnel must be submitted to TSA and include the following information:

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(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, sabotage, aircraft piracy, and other unlawful interference to civil aviation operations.

(3) A copy of that portion of the security program which describes the law enforcement support necessary to comply with § 1542.215.

(4) The availability of law enforcement personnel who meet the requirements of § 1542.217, 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 personnel needed to supplement available law enforcement personnel and the period of time for which they are needed.

(6) A statement acknowledging responsibility for providing reimbursement for the cost of providing Federal personnel.

(7) Any other information TSA considers necessary.

(c) In response to a request submitted in accordance with this section, TSA may authorize, on a reimbursable basis, the use of personnel employed by a Federal agency, with the consent of the head of that agency.

§ 1542.221 Records of law enforcement response.

(a) Each airport operator must ensure that—

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

(2) The record is maintained for a minimum of 180 days.

(b) Data developed in response to paragraph (a) of this section must include at least the following, except as authorized by TSA:

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

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

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

(4) The number of arrests, including—
 (i) Name, address, and the immediate disposition of each individual arrested;
 (ii) Type of weapon, explosive, or incendiary confiscated, as appropriate; and

(iii) Identification of the aircraft operators or foreign air carriers on which the individual arrested was, or was scheduled to be, a passenger or which screened that individual, as appropriate.

Subpart D—Contingency Measures

§ 1542.301 Contingency plan.

(a) Each airport operator required to have a security program under § 1542.103(a) and (b) must adopt a contingency plan and must:

(1) Implement its contingency plan when directed by TSA.

(2) Conduct reviews and exercises of its contingency plan as specified in the security program with all persons having responsibilities under the plan.

(3) Ensure that all parties involved know their responsibilities and that all information contained in the plan is current.

(b) TSA may approve alternative implementation measures, reviews, and exercises to the contingency plan which will provide an overall level of security equal to the contingency plan under paragraph (a) of this section.

§ 1542.303 Security Directives and Information Circulars.

(a) TSA may issue an Information Circular to notify airport operators of security concerns. When TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation, TSA issues a Security Directive setting forth mandatory measures.

(b) Each airport operator must comply with each Security Directive issued to the airport operator within the time prescribed in the Security Directive.

(c) Each airport operator that receives a Security Directive must—

(1) Within the time prescribed in the Security Directive, verbally acknowledge receipt of the Security Directive to TSA.

(2) Within the time prescribed in the Security Directive, specify the method by which the measures in the Security Directive have been implemented (or will be implemented, if the Security Directive is not yet effective).

(d) In the event that the airport operator is unable to implement the measures in the Security Directive, the airport operator must submit proposed alternative measures and the basis for submitting the alternative measures to TSA for approval. The airport operator must submit the proposed alternative measures within the time prescribed in the Security Directive. The airport operator must implement any alternative measures approved by TSA.

(e) Each airport operator that receives a Security Directive may comment on the Security Directive by submitting data, views, or arguments in writing to TSA. TSA may amend the Security Directive based on comments received. Submission of a comment does not delay the effective date of the Security Directive.

(f) Each airport operator that receives a Security Directive or an Information Circular and each person who receives information from a Security Directive or an Information Circular must:

(1) Restrict the availability of the Security Directive or Information Circular, and information contained in either document, to those persons with an operational need-to-know.

(2) Refuse to release the Security Directive or Information Circular, and information contained in either document, to persons other than those who have an operational need to know without the prior written consent of TSA.

§ 1542.305 Public advisories.

When advised by TSA, each airport operator must prominently display and maintain in public areas information concerning foreign airports that, in the judgment of the Secretary of Transportation, do not maintain and administer effective security measures. This information must be posted in the manner specified in the security program and

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for such a period of time determined by the Secretary of Transportation.

§ 1542.307 Incident management.

(a) Each airport operator must establish procedures to evaluate bomb threats, threats of sabotage, aircraft piracy, and other unlawful interference to civil aviation operations.

(b) Immediately upon direct or referred receipt of a threat of any of the incidents described in paragraph (a) of this section, each airport operator must—

(1) Evaluate the threat in accordance with its security program;

(2) Initiate appropriate action as specified in the Airport Emergency Plan under 14 CFR 139.325; and

(3) Immediately notify TSA of acts, or suspected acts, of unlawful interference to civil aviation operations, including specific bomb threats to aircraft and airport facilities.

(c) Airport operators required to have a security program under §1542.103(c) but not subject to 14 CFR part 139, must develop emergency response procedures to incidents of threats identified in paragraph (a) of this section.

(d) To ensure that all parties know their responsibilities and that all procedures are current, at least once every 12 calendar months each airport operator must review the procedures required in paragraphs (a) and (b) of this section with all persons having responsibilities for such procedures.

PART 1544—AIRCRAFT OPERATOR SECURITY: AIR CARRIERS AND COMMERCIAL OPERATORS

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Subpart E—Screener Qualifications When the Aircraft Operator Performs Screening

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- 1544.407 Training, testing, and knowledge of individuals who perform screening functions.
- 1544.409 Integrity of screener tests.
- 1544.411 Continuing qualifications of screening personnel.

AUTHORITY: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44907, 44913–44914, 44916–44918, 44932, 44935–44936, 44942, 46105.

SOURCE: 67 FR 8364, Feb. 22, 2002, unless otherwise noted.

Subpart A—General**§ 1544.1 Applicability of this part.**

(a) This part prescribes aviation security rules governing the following:

(1) The operations of aircraft operators holding operating certificates under 14 CFR part 119 for scheduled passenger operations, public charter passenger operations, private charter passenger operations; the operations of aircraft operators holding operating certificates under 14 CFR part 119 operating aircraft with a maximum certificated takeoff weight of 12,500 pounds or more; and other aircraft operators adopting and obtaining approval of an aircraft operator security program.

(2) Each law enforcement officer flying armed aboard an aircraft operated by an aircraft operator described in paragraph (a)(1) of this section.

(3) Each aircraft operator that receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular issued by TSA.

(b) As used in this part, “aircraft operator” means an aircraft operator subject to this part as described in § 1544.101.

[67 FR 8364, Feb. 22, 2002, as amended at 67 FR 8209, Feb. 22, 2002]

§ 1544.3 TSA inspection authority.

(a) Each aircraft operator must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

(1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each aircraft operator must provide evidence of compliance with this part and its security program, including copies of records.

(c) TSA may enter and be present within secured areas, AOAs, SIDAs, and other areas where security measures required by TSA are carried out, without access media or identification

media issued or approved by an airport operator or aircraft operator, in order to inspect or test compliance, or perform other such duties as TSA may direct.

(d) At the request of TSA and the completion of SIDA training as required in a security program, each aircraft operator must promptly issue to TSA personnel access and identification media to provide TSA personnel with unescorted access to, and movement within, areas controlled by the aircraft operator under an exclusive area agreement.

[67 FR 8364, Feb. 22, 2002, as amended at 71 FR 30510, May 26, 2006]

Subpart B—Security Program**§ 1544.101 Adoption and implementation.**

(a) *Full program.* Each aircraft operator must carry out subparts C, D, and E of this part and must adopt and carry out a security program that meets the requirements of § 1544.103 for each of the following operations:

(1) A scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of 61 or more seats.

(2) A scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of 60 or fewer seats when passengers are enplaned from or deplaned into a sterile area.

(b) *Partial program—adoption.* Each aircraft operator must carry out the requirements specified in paragraph (c) of this section for each of the following operations:

(1) A scheduled passenger or public charter passenger operation with an aircraft having a passenger-seating configuration of 31 or more but 60 or fewer seats that does not enplane from or deplane into a sterile area.

(2) A scheduled passenger or public charter passenger operation with an aircraft having a passenger-seating configuration of 60 or fewer seats engaged in operations to, from, or outside the United States that does not enplane from or deplane into a sterile area.

(c) *Partial program-content:* For operations described in paragraph (b) of

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this section, the aircraft operator must carry out the following, and must adopt and carry out a security program that meets the applicable requirements in § 1544.103 (c):

(1) The requirements of §§ 1544.215, 1544.217, 1544.219, 1544.223, 1544.230, 1544.235, 1544.237, 1544.301, 1544.303, and 1544.305.

(2) Other provisions of subparts C, D, and E of this part that TSA has approved upon request.

(3) The remaining requirements of subparts C, D, and E when TSA notifies the aircraft operator in writing that a security threat exists concerning that operation.

(d) *Twelve-five program-adoption:* Each aircraft operator must carry out the requirements of paragraph (e) of this section for each operation that meets all of the following—

(1) Is an aircraft with a maximum certificated takeoff weight of more than 12,500 pounds;

(2) Is in scheduled or charter service;

(3) Is carrying passengers or cargo or both; and

(4) Is not under a full program, partial program, or full all-cargo program under paragraph (a), (b), or (h) of this section.

(e) *Twelve-five program-contents:* For each operation described in paragraph (d) of this section, the aircraft operator must carry out the following, and must adopt and carry out a security program that meets the applicable requirements of § 1544.103 (c):

(1) The requirements of §§ 1544.215, 1544.217, 1544.219, 1544.223, 1544.230, 1544.235, 1544.237, 1544.301(a) and (b), 1544.303, and 1544.305; and in addition, for all-cargo operations of §§ 1544.202, 1544.205(a), (b), (d), and (f).

(2) Other provisions of subparts C, D, and E that TSA has approved upon request.

(3) The remaining requirements of subparts C, D, and E when TSA notifies the aircraft operator in writing that a security threat exists concerning that operation.

(f) *Private charter program.* In addition to paragraph (d) of this section, if applicable, each aircraft operator must carry out §§ 1544.201, 1544.207, 1544.209, 1544.211, 1544.215, 1544.217, 1544.219, 1544.225, 1544.229, 1544.230, 1544.233,

1544.235, 1544.303, and 1544.305, and subpart E of this part and—

(1) Must adopt and carry out a security program that meets the applicable requirements of § 1544.103 for each private charter passenger operation in which—

(i) The passengers are enplaned from or deplaned into a sterile area; or

(ii) The aircraft has a maximum certificated takeoff weight greater than 45,500 kg (100,309.3 pounds), or a passenger-seating configuration of 61 or more, and is not a government charter under paragraph (2) of the definition of private charter in § 1540.5 of this chapter.

(2) The Administrator may authorize alternate procedures under paragraph (f)(1) of this section as appropriate.

(g) *Limited program:* In addition to paragraph (d) of this section, if applicable, TSA may approve a security program after receiving a request by an aircraft operator holding a certificate under 14 CFR part 119, other than one identified in paragraph (a), (b), (d), or (f) of this section. The aircraft operator must—

(1) Carry out selected provisions of subparts C, D, and E;

(2) Carry out the provisions of § 1544.305, as specified in its security program; and

(3) Adopt and carry out a security program that meets the applicable requirements of § 1544.103 (c).

(h) *Full all-cargo program—adoption:* Each aircraft operator must carry out the requirements of paragraph (i) of this section for each operation that is—

(1) In an aircraft with a maximum certificated takeoff weight of more than 45,500 kg (100,309.3 pounds); and

(2) Carrying cargo and authorized persons and no passengers.

(i) *Full all-cargo program—contents:* For each operation described in paragraph (h) of this section, the aircraft operator must carry out the following, and must adopt and carry out a security program that meets the applicable requirements of § 1544.103(c):

(1) The requirements of §§ 1544.202, 1544.205, 1544.207, 1544.209, 1544.211, 1544.215, 1544.217, 1544.219, 1544.225, 1544.227, 1544.228, 1544.229, 1544.230,

1544.231, 1544.233, 1544.235, 1544.237, 1544.301, 1544.303, and 1544.305.

(2) Other provisions of subpart C of this part that TSA has approved upon request.

(3) The remaining requirements of subpart C of this part when TSA notifies the aircraft operator in writing that a security threat exists concerning that operation.

[67 FR 8364, Feb. 22, 2002, as amended at 67 FR 8209, Feb. 22, 2002; 67 FR 41639, June 19, 2002; 67 FR 79887, Dec. 31, 2002; 71 FR 30510, May 26, 2006]

§ 1544.103 Form, content, and availability.

(a) *General requirements.* Each security program must:

(1) Provide for the safety of persons and property traveling on flights provided by the aircraft operator against acts of criminal violence and air piracy, and the introduction of explosives, incendiaries, or weapons aboard an aircraft.

(2) Be in writing and signed by the aircraft operator or any person delegated authority in this matter.

(3) Be approved by TSA.

(b) *Availability.* Each aircraft operator having a security program must:

(1) Maintain an original copy of the security program at its corporate office.

(2) Have accessible a complete copy, or the pertinent portions of its security program, or appropriate implementing instructions, at each airport served. An electronic version of the program is adequate.

(3) Make a copy of the security program available for inspection upon request of TSA.

(4) Restrict the distribution, disclosure, and availability of information contained in the security program to persons with a need-to-know as described in part 1520 of this chapter.

(5) Refer requests for such information by other persons to TSA.

(c) *Content.* The security program must include, as specified for that aircraft operator in § 1544.101, the following:

(1) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.201 regarding the acceptance and

screening of individuals and their accessible property, including, if applicable, the carriage weapons as part of State-required emergency equipment.

(2) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.203 regarding the acceptance and screening of checked baggage.

(3) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.205 regarding the acceptance and screening of cargo.

(4) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.207 regarding the screening of individuals and property.

(5) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.209 regarding the use of metal detection devices.

(6) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.211 regarding the use of x-ray systems.

(7) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.213 regarding the use of explosives detection systems.

(8) The procedures used to comply with the requirements of § 1544.215 regarding the responsibilities of security coordinators. The names of the Aircraft Operator Security Coordinator (AOSC) and any alternate, and the means for contacting the AOSC(s) on a 24-hour basis, as provided in § 1544.215.

(9) The procedures used to comply with the requirements of § 1544.217 regarding the requirements for law enforcement personnel.

(10) The procedures used to comply with the requirements of § 1544.219 regarding carriage of accessible weapons.

(11) The procedures used to comply with the requirements of § 1544.221 regarding carriage of prisoners under the control of armed law enforcement officers.

(12) The procedures used to comply with the requirements of § 1544.223 regarding transportation of Federal Air Marshals.

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(13) The procedures and description of the facilities and equipment used to perform the aircraft and facilities control function specified in § 1544.225.

(14) The specific locations where the air carrier has entered into an exclusive area agreement under § 1544.227.

(15) The procedures used to comply with the applicable requirements of §§ 1544.229 and 1544.230 regarding fingerprint-based criminal history records checks.

(16) The procedures used to comply with the requirements of § 1544.231 regarding personnel identification systems.

(17) The procedures and syllabi used to accomplish the training required under § 1544.233.

(18) The procedures and syllabi used to accomplish the training required under § 1544.235.

(19) An aviation security contingency plan as specified under § 1544.301.

(20) The procedures used to comply with the requirements of § 1544.303 regarding bomb and air piracy threats.

(21) The procedures used to comply with § 1544.237 regarding flight deck privileges.

(22) The Aircraft Operator Implementation Plan (AOIP) as required under 49 CFR 1560.109.

[67 FR 8364, Feb. 22, 2002, as amended at 67 FR 8209, Feb. 22, 2002; 73 FR 64061, Oct. 28, 2008]

§ 1544.105 Approval and amendments.

(a) *Initial approval of security program.* Unless otherwise authorized by TSA, each aircraft operator required to have a security program under this part must submit its proposed security program to the designated official for approval at least 90 days before the intended date of operations. The proposed security program must meet the requirements applicable to its operation as described in § 1544.101. Such requests will be processed as follows:

(1) The designated official, within 30 days after receiving the proposed aircraft operator security program, will either approve the program or give the aircraft operator written notice to modify the program to comply with the applicable requirements of this part.

(2) The aircraft operator may either submit a modified security program to

the designated official for approval, or petition the Administrator to reconsider the notice to modify within 30 days of receiving a notice to modify. A petition for reconsideration must be filed with the designated official.

(3) The designated official, upon receipt of a petition for reconsideration, either amends or withdraws the notice, or transmits the petition, together with any pertinent information, to the Administrator for reconsideration. The Administrator disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the notice to modify, or by affirming the notice to modify.

(b) *Amendment requested by an aircraft operator.* An aircraft operator may submit a request to TSA to amend its security program as follows:

(1) The request for an amendment must be filed with the designated official at least 45 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to an aircraft operator security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 30 days after receiving a denial, the aircraft operator may petition the Administrator to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the Administrator for reconsideration. The Administrator disposes of the petition within 30 days of receipt by either directing the designated official to approve the amendment, or affirming the denial.

(6) Any aircraft operator may submit a group proposal for an amendment

that is on behalf of it and other aircraft operators that co-sign the proposal.

(c) *Amendment by TSA.* If safety and the public interest require an amendment, TSA may amend a security program as follows:

(1) The designated official notifies the aircraft operator, in writing, of the proposed amendment, fixing a period of not less than 30 days within which the aircraft operator may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the aircraft operator of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 days after the aircraft operator receives the notice of amendment, unless the aircraft operator petitions the Administrator to reconsider no later than 15 days before the effective date of the amendment. The aircraft operator must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice or transmits the petition, together with any pertinent information, to the Administrator for reconsideration. The Administrator disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* If the designated official finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, without the prior notice and comment procedures in paragraph (c) of this section, effective without stay on the date the aircraft operator receives notice of it. In such a case, the designated official will incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The aircraft operator may file a petition for reconsideration under paragraph (c)

of this section; however, this does not stay the effective date of the emergency amendment.

[67 FR 8353, Feb. 22, 2002, as amended at 76 FR 51867, Aug. 18, 2011]

Subpart C—Operations

§ 1544.201 Acceptance and screening of individuals and accessible property.

(a) *Preventing or deterring the carriage of any explosive, incendiary, or deadly or dangerous weapon.* Each aircraft operator must use the measures in its security program to prevent or deter the carriage of any weapon, explosive, or incendiary on or about each individual's person or accessible property before boarding an aircraft or entering a sterile area.

(b) *Screening of individuals and accessible property.* Except as provided in its security program, each aircraft operator must ensure that each individual entering a sterile area at each preboard screening checkpoint for which it is responsible, and all accessible property under that individual's control, are inspected for weapons, explosives, and incendiaries as provided in § 1544.207.

(c) *Refusal to transport.* Each aircraft operator must deny entry into a sterile area and must refuse to transport—

(1) Any individual who does not consent to a search or inspection of his or her person in accordance with the system prescribed in this part; and

(2) Any property of any individual or other person who does not consent to a search or inspection of that property in accordance with the system prescribed by this part.

(d) *Prohibitions on carrying a weapon, explosive, or incendiary.* Except as provided in §§ 1544.219, 1544.221, and 1544.223, no aircraft operator may permit any individual to have a weapon, explosive, or incendiary, on or about the individual's person or accessible property when onboard an aircraft.

(e) *Staffing.* Each aircraft operator must staff its security screening checkpoints with supervisory and non-supervisory personnel in accordance with the standards specified in its security program.

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§ 1544.202 Persons and property onboard an all-cargo aircraft.

Each aircraft operator operating under a full all-cargo program, or a twelve-five program in an all-cargo operation, must apply the security measures in its security program for persons who board the aircraft for transportation, and for their property, to prevent or deter the carriage of any unauthorized persons, and any unauthorized weapons, explosives, incendiaries, and other destructive devices, items, or substances.

[71 FR 30510, May 26, 2006]

§ 1544.203 Acceptance and screening of checked baggage.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each aircraft operator must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary onboard aircraft in checked baggage.

(b) *Acceptance.* Each aircraft operator must ensure that checked baggage carried in the aircraft is received by its authorized aircraft operator representative.

(c) *Screening of checked baggage.* Except as provided in its security program, each aircraft operator must ensure that all checked baggage is inspected for explosives and incendiaries before loading it on its aircraft, in accordance with § 1544.207.

(d) *Control.* Each aircraft operator must use the procedures in its security program to control checked baggage that it accepts for transport on an aircraft, in a manner that:

(1) Prevents the unauthorized carriage of any explosive or incendiary aboard the aircraft.

(2) Prevents access by persons other than an aircraft operator employee or its agent.

(e) *Refusal to transport.* Each aircraft operator must refuse to transport any individual's checked baggage or property if the individual does not consent to a search or inspection of that checked baggage or property in accordance with the system prescribed by this part.

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(f) *Firearms in checked baggage.* No aircraft operator may knowingly permit any person to transport in checked baggage:

(1) Any loaded firearm(s).

(2) Any unloaded firearm(s) unless—

(i) The passenger declares to the aircraft operator, either orally or in writing before checking the baggage that any firearm carried in the baggage is unloaded;

(ii) The firearm is carried in a hard-sided container;

(iii) The container in which it is carried is locked, and only the individual checking the baggage retains the key or combination; and

(iv) The checked baggage containing the firearm is carried in an area that is inaccessible to passengers, and is not carried in the flightcrew compartment.

(3) Any unauthorized explosive or incendiary.

(g) *Ammunition.* This section does not prohibit the carriage of ammunition in checked baggage or in the same container as a firearm. Title 49 CFR part 175 provides additional requirements governing carriage of ammunition on aircraft.

§ 1544.205 Acceptance and screening of cargo.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each aircraft operator operating under a full program, a full all-cargo program, or a twelve-five program in an all-cargo operation, must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized persons, and any unauthorized explosives, incendiaries, and other destructive substances or items in cargo onboard an aircraft.

(b) *Screening and inspection of cargo.* Each aircraft operator operating under a full program or a full all-cargo program, or a twelve-five program in an all-cargo operation, must ensure that cargo is screened and inspected for any unauthorized person, and any unauthorized explosive, incendiary, and other destructive substance or item as provided in the aircraft operator's security program and § 1544.207, and as provided in § 1544.239 for operations

under a full program, before loading it on its aircraft.

(c) *Control.* Each aircraft operator operating under a full program or a full all-cargo program must use the procedures in its security program to control cargo that it accepts for transport on an aircraft in a manner that:

(1) Prevents the carriage of any unauthorized person, and any unauthorized explosive, incendiary, and other destructive substance or item in cargo onboard an aircraft.

(2) Prevents unescorted access by persons other than an authorized aircraft operator employee or agent, or persons authorized by the airport operator or host government.

(d) *Refusal to transport.* Except as otherwise provided in its program, each aircraft operator operating under a full program, a full all-cargo program, or a twelve-five program in an all-cargo operation, must refuse to transport any cargo if the shipper does not consent to a search or inspection of that cargo in accordance with the system prescribed by this part.

(e) *Acceptance of cargo only from specified persons.* Each aircraft operator operating under a full program or a full all-cargo program may accept cargo to be loaded in the United States for air transportation only from the shipper, an aircraft operator, foreign air carrier, or indirect air carrier operating under a security program under this chapter with a comparable cargo security program, or, in the case of an operator under a full program, from a certified cargo screening facility, as provided in its security program.

(f) *Acceptance and screening of cargo outside the United States.* For cargo to be loaded on its aircraft outside the United States, each aircraft operator must carry out the requirements of its security program.

(g) *Screening of cargo loaded inside the United States by a full program operator.* For cargo to be loaded in the United States, each operator under a full program in §1544.101(a) must ensure that all cargo is screened in the United States as follows:

(1) *Amount screened.* (i) Not later than February 3, 2009, each operator under a full program must ensure that at least

50 percent of its cargo is screened prior to transport on a passenger aircraft.

(ii) Not later than August 3, 2010, each operator under a full program must ensure that 100 percent of its cargo is screened prior to transport on a passenger aircraft.

(2) *Methods of screening.* For the purposes of this paragraph (g), the aircraft operator must ensure that cargo is screened using a physical examination or non-intrusive method of assessing whether cargo poses a threat to transportation security, as provided in its security program. Such methods may include TSA-approved x-ray systems, explosives detection systems, explosives trace detection, explosives detection canine teams certified by TSA, or a physical search together with manifest verification, or other method approved by TSA.

(3) *Limitation on who may conduct screening.* Screening must be conducted by the aircraft operator, by another aircraft operator or foreign air carrier operating under a security program under this chapter with a comparable cargo security program, by a certified cargo screening facility in accordance with 49 CFR part 1549, or by TSA.

(4) *Verification.* The aircraft operator must verify that the chain of custody measures for the screened cargo are intact prior to loading such cargo on aircraft, or must ensure that the cargo is re-screened in accordance with this chapter.

[71 FR 30510, May 26, 2006, as amended at 74 FR 47703, Sept. 16, 2009; 76 FR 51867, Aug. 18, 2011; 76 FR 53080, Aug. 25, 2011]

§ 1544.207 Screening of individuals and property.

(a) *Applicability of this section.* This section applies to the inspection of individuals, accessible property, checked baggage, and cargo as required under this part.

(b) *Locations within the United States at which TSA conducts screening.* Each aircraft operator must ensure that the individuals or property have been inspected by TSA before boarding or loading on its aircraft. This paragraph applies when TSA is conducting screening using TSA employees or when using companies under contract with TSA.

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(c) *Aircraft operator conducting screening.* Each aircraft operator must use the measures in its security program and in subpart E of this part to inspect the individual or property. This paragraph does not apply at locations identified in paragraphs (b) and (d) of this section.

(d) *Locations outside the United States at which the foreign government conducts screening.* Each aircraft operator must ensure that all individuals and property have been inspected by the foreign government. This paragraph applies when the host government is conducting screening using government employees or when using companies under contract with the government.

§ 1544.209 Use of metal detection devices.

(a) No aircraft operator may use a metal detection device within the United States or under the aircraft operator's operational control outside the United States to inspect persons, unless specifically authorized under a security program under this part. No aircraft operator may use such a device contrary to its security program.

(b) Metal detection devices must meet the calibration standards established by TSA.

§ 1544.211 Use of X-ray systems.

(a) *TSA authorization required.* No aircraft operator may use any X-ray system within the United States or under the aircraft operator's operational control outside the United States to inspect accessible property or checked baggage, unless specifically authorized under its security program. No aircraft operator may use such a system in a manner contrary to its security program. TSA authorizes aircraft operators to use X-ray systems for inspecting accessible property or checked baggage under a security program if the aircraft operator shows that—

(1) The system meets the standards for cabinet X-ray systems primarily for the inspection of baggage issued by the Food and Drug Administration (FDA) and published in 21 CFR 1020.40;

(2) A program for initial and recurrent training of operators of the system is established, which includes training in radiation safety, the effi-

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cient use of X-ray systems, and the identification of weapons, explosives, and incendiaries; and

(3) The system meets the imaging requirements set forth in its security program using the step wedge specified in American Society for Testing Materials (ASTM) Standard F792-88 (Re-approved 1993). This standard is incorporated by reference in paragraph (g) of this section.

(b) *Annual radiation survey.* No aircraft operator may use any X-ray system unless, within the preceding 12 calendar months, a radiation survey is conducted that shows that the system meets the applicable performance standards in 21 CFR 1020.40.

(c) *Radiation survey after installation or moving.* No aircraft operator may use any X-ray system after the system has been installed at a screening point or after the system has been moved unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40. A radiation survey is not required for an X-ray system that is designed and constructed as a mobile unit and the aircraft operator shows that it can be moved without altering its performance.

(d) *Defect notice or modification order.* No aircraft operator may use any X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless the FDA has advised TSA that the defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person.

(e) *Signs and inspection of photographic equipment and film.* (1) At locations at which an aircraft operator uses an X-ray system to inspect accessible property the aircraft operator must ensure that a sign is posted in a conspicuous place at the screening checkpoint. At locations outside the United States at which a foreign government uses an X-ray system to inspect accessible property the aircraft operator must ensure that a sign is posted in a conspicuous place at the screening checkpoint.

(2) At locations at which an aircraft operator or TSA uses an X-ray system to inspect checked baggage the aircraft

operator must ensure that a sign is posted in a conspicuous place where the aircraft operator accepts checked baggage.

(3) The signs required under this paragraph (e) must notify individuals that such items are being inspected by an X-ray and advise them to remove all X-ray, scientific, and high-speed film from accessible property and checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any accessible property or checked baggage to more than one milliroentgen during the inspection, the sign must advise individuals to remove film of all kinds from their articles before inspection.

(4) If requested by individuals, their photographic equipment and film packages must be inspected without exposure to an X-ray system.

(f) *Radiation survey verification after installation or moving.* Each aircraft operator must maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and must make it available for inspection upon request by TSA at each of the following locations—

(1) The aircraft operator's principal business office; and

(2) The place where the X-ray system is in operation.

(g) *Incorporation by reference.* The American Society for Testing and Materials (ASTM) Standard F792-88 (Reapproved 1993), "Standard Practice for Design and Use of Ionizing Radiation Equipment for the Detection of Items Prohibited in Controlled Access Areas," is approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. ASTM Standard F792-88 may be examined at the Department of Transportation (DOT) Docket, 400 Seventh Street SW, Room Plaza 401, Washington, DC 20590, or on DOT's Docket Management System (DMS) web page at <http://dms.dot.gov/search> (under docket number FAA-2001-8725). Copies of the standard may be examined also at the National Archives

and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. In addition, ASTM Standard F792-88 (Reapproved 1993) may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

(h) *Duty time limitations.* Each aircraft operator must comply with the X-ray operator duty time limitations specified in its security program.

[67 FR 8364, Feb. 22, 2002, as amended at 69 FR 18803, Apr. 9, 2004]

§ 1544.213 Use of explosives detection systems.

(a) *Use of explosive detection equipment.* If TSA so requires by an amendment to an aircraft operator's security program, each aircraft operator required to conduct screening under a security program must use an explosives detection system approved by TSA to screen checked baggage on international flights.

(b) *Signs and inspection of photographic equipment and film.* (1) At locations at which an aircraft operator or TSA uses an explosives detection system that uses X-ray technology to inspect checked baggage the aircraft operator must ensure that a sign is posted in a conspicuous place where the aircraft operator accepts checked baggage. The sign must notify individuals that such items are being inspected by an explosives detection system and advise them to remove all X-ray, scientific, and high-speed film from checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an explosives detection system.

(2) If the explosives detection system exposes any checked baggage to more than one milliroentgen during the inspection the aircraft operator must post a sign which advises individuals to remove film of all kinds from their articles before inspection. If requested by

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individuals, their photographic equipment and film packages must be inspected without exposure to an explosives detection system.

§ 1544.215 Security coordinators.

(a) *Aircraft Operator Security Coordinator.* Each aircraft operator must designate and use an Aircraft Operator Security Coordinator (AOSC). The AOSC and any alternates must be appointed at the corporate level and must serve as the aircraft operator's primary contact for security-related activities and communications with TSA, as set forth in the security program. Either the AOSC, or an alternate AOSC, must be available on a 24-hour basis.

(b) *Ground Security Coordinator.* Each aircraft operator must designate and use a Ground Security Coordinator for each domestic and international flight departure to carry out the Ground Security Coordinator duties specified in the aircraft operator's security program. The Ground Security Coordinator at each airport must conduct the following daily:

(1) A review of all security-related functions for which the aircraft operator is responsible, for effectiveness and compliance with this part, the aircraft operator's security program, and applicable Security Directives.

(2) Immediate initiation of corrective action for each instance of noncompliance with this part, the aircraft operator's security program, and applicable Security Directives. At foreign airports where such security measures are provided by an agency or contractor of a host government, the aircraft operator must notify TSA for assistance in resolving noncompliance issues.

(c) *In-flight Security Coordinator.* Each aircraft operator must designate and use the pilot in command as the In-flight Security Coordinator for each domestic and international flight to perform duties specified in the aircraft operator's security program.

§ 1544.217 Law enforcement personnel.

(a) The following applies to operations at airports within the United States that are not required to hold a security program under part 1542 of this chapter.

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(1) For operations described in § 1544.101(a) each aircraft operator must provide for law enforcement personnel meeting the qualifications and standards specified in §§ 1542.215 and 1542.217 of this chapter.

(2) For operations under a partial program under § 1544.101(b) and (c), a twelve-five program under § 1544.101(d) and (e), a private charter program under § 1544.101(f), or a full all-cargo program under § 1544.101(h) and (i), each aircraft operator must—

(i) Arrange for law enforcement personnel meeting the qualifications and standards specified in § 1542.217 of this chapter to be available to respond to an incident; and

(ii) Provide its employees, including crewmembers, current information regarding procedures for obtaining law enforcement assistance at that airport.

(b) The following applies to operations at airports required to hold security programs under part 1542 of this chapter. For operations under a partial program under § 1544.101(b) and (c), a twelve-five program under § 1544.101(d) and (e), a private charter program under § 1544.101(f), or a full all-cargo program under § 1544.101(h) and (i), each aircraft operator must—

(1) Arrange with TSA and the airport operator, as appropriate, for law enforcement personnel meeting the qualifications and standards specified in § 1542.217 of this chapter to be available to respond to incidents, and

(2) Provide its employees, including crewmembers, current information regarding procedures for obtaining law enforcement assistance at that airport.

[67 FR 8364, Feb. 22, 2002, as amended at 71 FR 30510, May 26, 2006]

§ 1544.219 Carriage of accessible weapons.

(a) *Flights for which screening is conducted.* The provisions of § 1544.201(d), with respect to accessible weapons, do not apply to a law enforcement officer (LEO) aboard a flight for which screening is required if the requirements of this section are met. Paragraph (a) of this section does not apply to a Federal Air Marshal on duty status under § 1544.223.

(1) Unless otherwise authorized by TSA, the armed LEO must meet the following requirements:

(i) Be a Federal law enforcement officer or a full-time municipal, county, or state law enforcement officer who is a direct employee of a government agency.

(ii) Be sworn and commissioned to enforce criminal statutes or immigration statutes.

(iii) Be authorized by the employing agency to have the weapon in connection with assigned duties.

(iv) Has completed the training program "Law Enforcement Officers Flying Armed."

(2) In addition to the requirements of paragraph (a)(1) of this section, the armed LEO must have a need to have the weapon accessible from the time he or she would otherwise check the weapon until the time it would be claimed after deplaning. The need to have the weapon accessible must be determined by the employing agency, department, or service and be based on one of the following:

(i) The provision of protective duty, for instance, assigned to a principal or advance team, or on travel required to be prepared to engage in a protective function.

(ii) The conduct of a hazardous surveillance operation.

(iii) On official travel required to report to another location, armed and prepared for duty.

(iv) Employed as a Federal LEO, whether or not on official travel, and armed in accordance with an agency-wide policy governing that type of travel established by the employing agency by directive or policy statement.

(v) Control of a prisoner, in accordance with §1544.221, or an armed LEO on a round trip ticket returning from escorting, or traveling to pick up, a prisoner.

(vi) TSA Federal Air Marshal on duty status.

(3) The armed LEO must comply with the following notification requirements:

(i) All armed LEOs must notify the aircraft operator of the flight(s) on which he or she needs to have the weapon accessible at least 1 hour, or in

an emergency as soon as practicable, before departure.

(ii) Identify himself or herself to the aircraft operator by presenting credentials that include a clear full-face picture, the signature of the armed LEO, and the signature of the authorizing official of the agency, service, or department or the official seal of the agency, service, or department. A badge, shield, or similar device may not be used, or accepted, as the sole means of identification.

(iii) If the armed LEO is a State, county, or municipal law enforcement officer, he or she must present an original letter of authority, signed by an authorizing official from his or her employing agency, service or department, confirming the need to travel armed and detailing the itinerary of the travel while armed.

(iv) If the armed LEO is an escort for a foreign official then this paragraph (a)(3) may be satisfied by a State Department notification.

(4) The aircraft operator must do the following:

(i) Obtain information or documentation required in paragraphs (a)(3)(ii), (iii), and (iv) of this section.

(ii) Advise the armed LEO, before boarding, of the aircraft operator's procedures for carrying out this section.

(iii) Have the LEO confirm he/she has completed the training program "Law Enforcement Officers Flying Armed" as required by TSA, unless otherwise authorized by TSA.

(iv) Ensure that the identity of the armed LEO is known to the appropriate personnel who are responsible for security during the boarding of the aircraft.

(v) Notify the pilot in command and other appropriate crewmembers, of the location of each armed LEO aboard the aircraft. Notify any other armed LEO of the location of each armed LEO, including FAM's. Under circumstances described in the security program, the aircraft operator must not close the doors until the notification is complete.

(vi) Ensure that the information required in paragraphs (a)(3)(i) and (ii) of this section is furnished to the flight crew of each additional connecting

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flight by the Ground Security Coordinator or other designated agent at each location.

(b) *Flights for which screening is not conducted.* The provisions of §1544.201(d), with respect to accessible weapons, do not apply to a LEO aboard a flight for which screening is not required if the requirements of paragraphs (a)(1), (3), and (4) of this section are met.

(c) *Alcohol.* (1) No aircraft operator may serve any alcoholic beverage to an armed LEO.

(2) No armed LEO may:

(i) Consume any alcoholic beverage while aboard an aircraft operated by an aircraft operator.

(ii) Board an aircraft armed if they have consumed an alcoholic beverage within the previous 8 hours.

(d) *Location of weapon.* (1) Any individual traveling aboard an aircraft while armed must at all times keep their weapon:

(i) Concealed and out of view, either on their person or in immediate reach, if the armed LEO is not in uniform.

(ii) On their person, if the armed LEO is in uniform.

(2) No individual may place a weapon in an overhead storage bin.

§ 1544.221 Carriage of prisoners under the control of armed law enforcement officers.

(a) This section applies as follows:

(1) This section applies to the transport of prisoners under the escort of an armed law enforcement officer.

(2) This section does not apply to the carriage of passengers under voluntary protective escort.

(3) This section does not apply to the escort of non-violent detainees of the Immigration and Naturalization Service. This section does not apply to individuals who may be traveling with a prisoner and armed escort, such as the family of a deportee who is under armed escort.

(b) For the purpose of this section:

(1) "High risk prisoner" means a prisoner who is an exceptional escape risk, as determined by the law enforcement agency, and charged with, or convicted of, a violent crime.

(2) "Low risk prisoner" means any prisoner who has not been designated as "high risk."

(c) No aircraft operator may carry a prisoner in the custody of an armed law enforcement officer aboard an aircraft for which screening is required unless, in addition to the requirements in §1544.219, the following requirements are met:

(1) The agency responsible for control of the prisoner has determined whether the prisoner is considered a high risk or a low risk.

(2) Unless otherwise authorized by TSA, no more than one high risk prisoner may be carried on the aircraft.

(d) No aircraft operator may carry a prisoner in the custody of an armed law enforcement officer aboard an aircraft for which screening is required unless the following staffing requirements are met:

(1) A minimum of one armed law enforcement officer must control a low risk prisoner on a flight that is scheduled for 4 hours or less. One armed law enforcement officer may control no more than two low risk prisoners.

(2) A minimum of two armed law enforcement officers must control a low risk prisoner on a flight that is scheduled for more than 4 hours. Two armed law enforcement officers may control no more than two low risk prisoners.

(3) For high-risk prisoners:

(i) For one high-risk prisoner on a flight: A minimum of two armed law enforcement officers must control a high risk prisoner. No other prisoners may be under the control of those two armed law enforcement officers.

(ii) If TSA has authorized more than one high-risk prisoner to be on the flight under paragraph (c)(2) of this section, a minimum of one armed law enforcement officer for each prisoner and one additional armed law enforcement officer must control the prisoners. No other prisoners may be under the control of those armed law enforcement officers.

(e) An armed law enforcement officer who is escorting a prisoner—

(1) Must notify the aircraft operator at least 24 hours before the scheduled departure, or, if that is not possible as far in advance as possible of the following—

(i) The identity of the prisoner to be carried and the flight on which it is proposed to carry the prisoner; and

(ii) Whether or not the prisoner is considered to be a high risk or a low risk.

(2) Must arrive at the check-in counter at least 1 hour before to the scheduled departure.

(3) Must assure the aircraft operator, before departure, that each prisoner under the control of the officer(s) has been searched and does not have on or about his or her person or property anything that can be used as a weapon.

(4) Must be seated between the prisoner and any aisle.

(5) Must accompany the prisoner at all times, and keep the prisoner under control while aboard the aircraft.

(f) No aircraft operator may carry a prisoner in the custody of an armed law enforcement officer aboard an aircraft unless the following are met:

(1) When practicable, the prisoner must be boarded before any other boarding passengers and deplaned after all other deplaning passengers.

(2) The prisoner must be seated in a seat that is neither located in any passenger lounge area nor located next to or directly across from any exit and, when practicable, the aircraft operator should seat the prisoner in the rear-most seat of the passenger cabin.

(g) Each armed law enforcement officer escorting a prisoner and each aircraft operator must ensure that the prisoner is restrained from full use of his or her hands by an appropriate device that provides for minimum movement of the prisoner's hands, and must ensure that leg irons are not used.

(h) No aircraft operator may provide a prisoner under the control of a law enforcement officer—

(1) With food or beverage or metal eating utensils unless authorized to do so by the armed law enforcement officer.

(2) With any alcoholic beverage.

§ 1544.223 Transportation of Federal Air Marshals.

(a) A Federal Air Marshal on duty status may have a weapon accessible while aboard an aircraft for which screening is required.

(b) Each aircraft operator must carry Federal Air Marshals, in the number and manner specified by TSA, on each scheduled passenger operation, and public charter passenger operation designated by TSA.

(c) Each Federal Air Marshal must be carried on a first priority basis and without charge while on duty, including positioning and repositioning flights. When a Federal Air Marshal is assigned to a scheduled flight that is canceled for any reason, the aircraft operator must carry that Federal Air Marshal without charge on another flight as designated by TSA.

(d) Each aircraft operator must assign the specific seat requested by a Federal Air Marshal who is on duty status. If another LEO is assigned to that seat or requests that seat, the aircraft operator must inform the Federal Air Marshal. The Federal Air Marshal will coordinate seat assignments with the other LEO.

(e) The Federal Air Marshal identifies himself or herself to the aircraft operator by presenting credentials that include a clear, full-face picture, the signature of the Federal Air Marshal, and the signature of the FAA Administrator. A badge, shield, or similar device may not be used or accepted as the sole means of identification.

(f) The requirements of § 1544.219(a) do not apply for a Federal Air Marshal on duty status.

(g) Each aircraft operator must restrict any information concerning the presence, seating, names, and purpose of Federal Air Marshals at any station or on any flight to those persons with an operational need to know.

(h) Law enforcement officers authorized to carry a weapon during a flight will be contacted directly by a Federal Air Marshal who is on that same flight.

§ 1544.225 Security of aircraft and facilities.

Each aircraft operator must use the procedures included, and the facilities and equipment described, in its security program to perform the following control functions with respect to each aircraft operation:

(a) Prevent unauthorized access to areas controlled by the aircraft operator under an exclusive area agreement

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in accordance with §1542.111 of this chapter.

(b) Prevent unauthorized access to each aircraft.

(c) Conduct a security inspection of each aircraft before placing it into passenger operations if access has not been controlled in accordance with the aircraft operator security program and as otherwise required in the security program.

(d) When operating under a full program or a full all-cargo program, prevent unauthorized access to the operational area of the aircraft while loading or unloading cargo.

[67 FR 8364, Feb. 22, 2002, as amended at 71 FR 30510, May 26, 2006]

§ 1544.227 Exclusive area agreement.

(a) An aircraft operator that has entered into an exclusive area agreement with an airport operator, under §1542.111 of this chapter must carry out that exclusive area agreement.

(b) The aircraft operator must list in its security program the locations at which it has entered into exclusive area agreements with an airport operator.

(c) The aircraft operator must provide the exclusive area agreement to TSA upon request.

(d) Any exclusive area agreements in effect on November 14, 2001, must meet the requirements of this section and §1542.111 of this chapter no later than November 14, 2002.

§ 1544.228 Access to cargo and cargo screening; Security threat assessments for cargo personnel in the United States.

This section applies in the United States to each aircraft operator operating under a full program under §1544.101(a) or a full all-cargo program under §1544.101(h).

(a) Before an aircraft operator authorizes and before an individual performs a function described in paragraph (b) of this section—

(1) Each individual must successfully complete a security threat assessment or comparable security threat assessment described in part 1540 subpart C of this chapter; and

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(2) Each aircraft operator must complete the requirements in part 1540 subpart C.

(b) The security threat assessment required in paragraph (a) of this section applies to the following:

(1) Each individual who has unescorted access to cargo and access to information that such cargo will be transported on a passenger aircraft; or who has unescorted access to cargo that has been screened for transport on a passenger aircraft; or who performs certain functions related to the transportation, dispatch, or security of cargo for transport on a passenger aircraft or all-cargo aircraft, as specified in the aircraft operator's security program; from the time—

(i) The cargo reaches a location where an aircraft operator with a full all-cargo program consolidates or inspects it pursuant to security program requirements until the cargo enters an airport Security Identification Display Area or is transferred to another TSA-regulated aircraft operator, foreign air carrier, or indirect air carrier; or

(ii) An aircraft operator with a full program accepts the cargo until the cargo—

(A) Enters an airport Security Identification Display Area;

(B) Is removed from the destination airport; or

(C) Is transferred to another TSA-regulated aircraft operator, foreign air carrier, or indirect air carrier.

(2) Each individual the aircraft operator authorizes to screen cargo or to supervise the screening of cargo under §1544.205.

[74 FR 47704, Sept. 16, 2009]

§ 1544.229 Fingerprint-based criminal history records checks (CHRC): Unescorted access authority, authority to perform screening functions, and authority to perform checked baggage or cargo functions.

This section applies to each aircraft operator operating under a full program, a private charter program, or a full all-cargo program.

(a) *Scope.* The following individuals are within the scope of this section. Unescorted access authority, authority

to perform screening functions, and authority to perform checked baggage or cargo functions, are collectively referred to as “covered functions.”

(1) *New unescorted access authority or authority to perform screening functions.*

(i) Each employee or contract employee covered under a certification made to an airport operator on or after December 6, 2001, pursuant to 14 CFR 107.209(n) in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001) or § 1542.209(n) of this chapter.

(ii) Each individual issued on or after December 6, 2001, an aircraft operator identification media that one or more airports accepts as airport-approved media for unescorted access authority within a security identification display area (SIDA), as described in § 1542.205 of this chapter (referred to as “unescorted access authority”).

(iii) Each individual granted authority to perform the following screening functions at locations within the United States (referred to as “authority to perform screening functions”):

(A) Screening passengers or property that will be carried in a cabin of an aircraft of an aircraft operator required to screen passengers under this part.

(B) Serving as an immediate supervisor (checkpoint security supervisor (CSS)), and the next supervisory level (shift or site supervisor), to those individuals described in paragraphs (a)(1)(iii)(A) or (a)(1)(iii)(C) of this section.

(C) Screening cargo that will be carried on an aircraft of an aircraft operator with a full all-cargo program.

(2) *Current unescorted access authority or authority to perform screening functions.* (i) Each employee or contract employee covered under a certification made to an airport operator pursuant to 14 CFR 107.31(n) in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001), or pursuant to 14 CFR 107.209(n) in effect prior to December 6, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001).

(ii) Each individual who holds on December 6, 2001, an aircraft operator identification media that one or more airports accepts as airport-approved media for unescorted access authority

within a security identification display area (SIDA), as described in § 1542.205 of this chapter.

(iii) Each individual who is performing on December 6, 2001, a screening function identified in paragraph (a)(1)(iii) of this section.

(3) *New authority to perform checked baggage or cargo functions.* Each individual who, on and after February 17, 2002, is granted the authority to perform the following checked baggage and cargo functions (referred to as “authority to perform checked baggage or cargo functions”), except for individuals described in paragraph (a)(1) of this section:

(i) Screening of checked baggage or cargo of an aircraft operator required to screen passengers under this part, or serving as an immediate supervisor of such an individual.

(ii) Accepting checked baggage for transport on behalf of an aircraft operator required to screen passengers under this part.

(4) *Current authority to perform checked baggage or cargo functions.* Each individual who holds on February 17, 2002, authority to perform checked baggage or cargo functions, except for individuals described in paragraph (a)(1) or (2) of this section.

(b) *Individuals seeking unescorted access authority, authority to perform screening functions, or authority to perform checked baggage or cargo functions.* Each aircraft operator must ensure that each individual identified in paragraph (a)(1) or (3) of this section has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in paragraph (d) of this section, before—

(1) Making a certification to an airport operator regarding that individual;

(2) Issuing an aircraft operator identification medium to that individual;

(3) Authorizing that individual to perform screening functions; or

(4) Authorizing that individual to perform checked baggage or cargo functions.

(c) *Individuals who have not had a CHRC—(1) Deadline for conducting a*

CHRC. Each aircraft operator must ensure that, on and after December 6, 2002:

(i) No individual retains unescorted access authority, whether obtained as a result of a certification to an airport operator under 14 CFR 107.31(n) in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001), or under 14 CFR 107.209(n) in effect prior to December 6, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001), or obtained as a result of the issuance of an aircraft operator's identification media, unless the individual has been subject to a fingerprint-based CHRC for unescorted access authority under this part.

(ii) No individual continues to have authority to perform screening functions described in paragraph (a)(1)(iii) of this section, unless the individual has been subject to a fingerprint-based CHRC under this part.

(iii) No individual continues to have authority to perform checked baggage or cargo functions described in paragraph (a)(3) of this section, unless the individual has been subject to a fingerprint-based CHRC under this part.

(2) *Lookback for individuals with unescorted access authority or authority to perform screening functions.* When a CHRC discloses a disqualifying criminal offense for which the conviction or finding was on or after December 6, 1991, the aircraft operator must immediately suspend that individual's unescorted access authority or authority to perform screening functions.

(3) *Lookback for individuals with authority to perform checked baggage or cargo functions.* When a CHRC discloses a disqualifying criminal offense for which the conviction or finding was on or after February 17, 1992, the aircraft operator must immediately suspend that individual's authority to perform checked baggage or cargo functions.

(d) *Disqualifying criminal offenses.* An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty by reason of insanity, of any of the disqualifying crimes listed in this paragraph in any jurisdiction during the 10 years before the date of the individual's application for authority to perform covered functions, or while the individual has au-

thority to perform covered functions. The disqualifying criminal offenses are as follows:

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U.S.C. 46306.

(2) Interference with air navigation; 49 U.S.C. 46308.

(3) Improper transportation of a hazardous material; 49 U.S.C. 46312.

(4) Aircraft piracy; 49 U.S.C. 46502.

(5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.

(6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.

(7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.

(8) Conveying false information and threats; 49 U.S.C. 46507.

(9) Aircraft piracy outside the special aircraft jurisdiction of the United States; 49 U.S.C. 46502(b).

(10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.

(11) 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.

(12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.

(13) Murder.

(14) Assault with intent to murder.

(15) Espionage.

(16) Sedition.

(17) Kidnapping or hostage taking.

(18) Treason.

(19) Rape or aggravated sexual abuse.

(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.

(21) Extortion.

(22) Armed or felony unarmed robbery.

(23) Distribution of, or intent to distribute, a controlled substance.

(24) Felony arson.

(25) Felony involving a threat.

(26) Felony involving—

(i) Willful destruction of property;

(ii) Importation or manufacture of a controlled substance;

(iii) Burglary;

(iv) Theft;

(v) Dishonesty, fraud, or misrepresentation;

(vi) Possession or distribution of stolen property;

(vii) Aggravated assault;

(viii) Bribery; or

(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.

(27) Violence at international airports; 18 U.S.C. 37.

(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph (d).

(e) *Fingerprint application and processing.* (1) At the time of fingerprinting, the aircraft operator must provide the individual to be fingerprinted a fingerprint application that includes only the following—

(i) The disqualifying criminal offenses described in paragraph (d) of this section.

(ii) A statement that the individual signing the application does not have a disqualifying criminal offense.

(iii) A statement informing the individual that Federal regulations under 49 CFR 1544.229 impose a continuing obligation to disclose to the aircraft operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while he or she has authority to perform a covered function.

(iv) A statement reading, “The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. (See section 1001 of Title 18 United States Code.)”

(v) A line for the printed name of the individual.

(vi) A line for the individual’s signature and date of signature.

(2) Each individual must complete and sign the application prior to submitting his or her fingerprints.

(3) The aircraft operator must verify the identity of the individual through two forms of identification prior to fingerprinting, and ensure that the printed name on the fingerprint application is legible. At least one of the two forms of identification must have

been issued by a government authority, and at least one must include a photo.

(4) The aircraft operator must:

(i) Advise the individual that a copy of the criminal record received from the FBI will be provided to the individual, if requested by the individual in writing; and

(ii) Identify a point of contact if the individual has questions about the results of the CHRC.

(5) The aircraft operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation by the aircraft operator or a law enforcement officer.

(6) Fingerprints may be obtained and processed electronically, or recorded on fingerprint cards approved by the FBI and distributed by TSA for that purpose.

(7) The fingerprint submission must be forwarded to TSA in the manner specified by TSA.

(f) *Fingerprinting fees.* Aircraft operators must pay for all fingerprints in a form and manner approved by TSA. The payment must be made at the designated rate (available from the local TSA security office) for each set of fingerprints submitted. Information about payment options is available through the designated TSA headquarters point of contact. Individual personal checks are not acceptable.

(g) *Determination of arrest status.* (1) When a CHRC on an individual described in paragraph (a)(1) or (3) of this section discloses an arrest for any disqualifying criminal offense listed in paragraph (d) of this section without indicating a disposition, the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before granting authority to perform a covered function. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(2) When a CHRC on an individual described in paragraph (a)(2) or (4) of this section discloses an arrest for any disqualifying criminal offense without indicating a disposition, the aircraft operator must suspend the individual’s

authority to perform a covered function not later than 45 days after obtaining the CHRC unless the aircraft operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(3) The aircraft operator may only make the determinations required in paragraphs (g)(1) and (g)(2) of this section for individuals for whom it is issuing, or has issued, authority to perform a covered function; and individuals who are covered by a certification from an aircraft operator under §1542.209(n) of this chapter. The aircraft operator may not make determinations for individuals described in §1542.209(a) of this chapter.

(h) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny authority to an individual described in paragraph (a)(1) or (3) of this section, the aircraft operator must advise him or her that the FBI criminal record discloses information that would disqualify him or her from receiving or retaining authority to perform a covered function and provide the individual with a copy of the FBI record if he or she requests it.

(2) The aircraft operator must notify an individual that a final decision has been made to grant or deny authority to perform a covered function.

(3) Immediately following the suspension of authority to perform a covered function, the aircraft operator must advise the individual that the FBI criminal record discloses information that disqualifies him or her from retaining his or her authority, and provide the individual with a copy of the FBI record if he or she requests it.

(i) *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 or her record, subject to the following conditions—

(1) For an individual seeking unescorted access authority or authority to perform screening functions on or after December 6, 2001; or an individual seeking authority to perform checked baggage or cargo functions on or after February 17, 2002; the following applies:

(i) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record or a certified true copy of the information from the appropriate court, prior to authority to perform a covered function.

(ii) If no notification, as described in paragraph (h)(1) of this section, is received within 30 days, the aircraft operator may make a final determination to deny authority to perform a covered function.

(2) For an individual with unescorted access authority or authority to perform screening functions before December 6, 2001; or an individual with authority to perform checked baggage or cargo functions before February 17, 2002; the following applies: Within 30 days after being advised of suspension because the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to reinstating authority to perform a covered function.

(j) *Limits on dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section and §1542.209 of this chapter. No person may disseminate the results of a CHRC to anyone other than:

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

(2) Officials of airport operators who are determining whether to grant unescorted access to the individual under part 1542 of this chapter when the determination is not based on the aircraft operator's certification under § 1542.209(n) of this chapter.

(3) Other aircraft operators who are determining whether to grant authority to perform a covered function under this part.

(4) Others designated by TSA.

(k) *Recordkeeping.* The aircraft operator must maintain the following information.

(1) *Investigation conducted before December 6, 2001.* The aircraft operator must maintain and control the access or employment history investigation files, including the criminal history records results portion, for investigations conducted before December 6, 2001.

(2) *Fingerprint application process on or after December 6, 2001.* The aircraft operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct aircraft operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(3) *Protection of records—all investigations.* The records required by this section must be maintained in a manner that is acceptable to TSA and in a manner that protects the confidentiality of the individual.

(4) *Duration—all investigations.* The records identified in this section with regard to an individual must be maintained until 180 days after the termination of the individual's authority to perform a covered function. When files are no longer maintained, the criminal record must be destroyed.

(1) *Continuing responsibilities.* (1) Each individual with unescorted access authority or the authority to perform screening functions on December 6, 2001, who had a disqualifying criminal offense in paragraph (d) of this section on or after December 6, 1991, must, by January 7, 2002, report the conviction to the aircraft operator and surrender the SIDA access medium to the issuer and cease performing screening functions, as applicable.

(2) Each individual with authority to perform a covered function who has a disqualifying criminal offense must report the offense to the aircraft operator and surrender the SIDA access medium to the issuer within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(3) If information becomes available to the aircraft operator indicating that an individual with authority to perform a covered function has a possible conviction for any disqualifying criminal offense in paragraph (d) of this section, the aircraft operator must determine the status of the conviction. If a disqualifying criminal offense is confirmed the aircraft operator must immediately revoke any authority to perform a covered function.

(4) Each individual with authority to perform checked baggage or cargo functions on February 17, 2002, who had a disqualifying criminal offense in paragraph (d) of this section on or after February 17, 1992, must, by March 25 2002, report the conviction to the aircraft operator and cease performing check baggage or cargo functions.

(m) *Aircraft operator responsibility.* The aircraft operator must—

(1) Designate an individual(s) to be responsible for maintaining and controlling the employment history investigations for those whom the aircraft operator has made a certification to an airport operator under 14 CFR 107.209(n) in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001), and for those whom the aircraft operator has issued identification media that are airport-accepted. The aircraft operator must designate a direct employee to maintain, control, and, as appropriate, destroy criminal records.

(2) Designate an individual(s) to maintain the employment history investigations of individuals with authority to perform screening functions whose files must be maintained at the location or station where the screener is performing his or her duties.

(3) Designate an individual(s) at appropriate locations to serve as the contact to receive notification from individuals seeking authority to perform covered functions of their intent to

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seek correction of their FBI criminal record.

(4) Audit the employment history investigations performed in accordance with this section and 14 CFR 108.33 in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001). The aircraft operator must set forth the audit procedures in its security program.

[67 FR 8364, Feb. 22, 2002, as amended at 71 FR 30511, May 26, 2006]

§ 1544.230 Fingerprint-based criminal history records checks (CHRC): Flightcrew members.

(a) *Scope.* This section applies to each flightcrew member for each aircraft operator, except that this section does not apply to flightcrew members who are subject to § 1544.229.

(b) *CHRC required.* Each aircraft operator must ensure that each flightcrew member has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in § 1544.229(d), before allowing that individual to serve as a flightcrew member.

(c) *Application and fees.* Each aircraft operator must ensure that each flightcrew member's fingerprints are obtained and submitted as described in § 1544.229 (e) and (f).

(d) *Determination of arrest status.* (1) When a CHRC on an individual described in paragraph (a) of this section discloses an arrest for any disqualifying criminal offense listed in § 1544.229(d) without indicating a disposition, the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before the individual may serve as a flightcrew member. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in § 1544.229(d), the flight crewmember is not disqualified under this section.

(2) When a CHRC on an individual described in paragraph (a) of this section discloses an arrest for any disqualifying criminal offense listed in § 1544.229(d) without indicating a disposition, the aircraft operator must suspend the individual's flightcrew member privileges not later than 45

days after obtaining a CHRC, unless the aircraft operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in § 1544.229(d), the flight crewmember is not disqualified under this section.

(3) The aircraft operator may only make the determinations required in paragraphs (d)(1) and (d)(2) of this section for individuals whom it is using, or will use, as a flightcrew member. The aircraft operator may not make determinations for individuals described in § 1542.209(a) of this chapter.

(e) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny the individual the ability to serve as a flightcrew member, the aircraft operator must advise the individual that the FBI criminal record discloses information that would disqualify the individual from serving as a flightcrew member and provide the individual with a copy of the FBI record if the individual requests it.

(2) The aircraft operator must notify the individual that a final decision has been made to allow or deny the individual flightcrew member status.

(3) Immediately following the denial of flightcrew member status, the aircraft operator must advise the individual that the FBI criminal record discloses information that disqualifies him or her from retaining his or her flightcrew member status, and provide the individual with a copy of the FBI record if he or she requests it.

(f) *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 or her record, subject to the following conditions—

(1) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his

or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record or a certified true copy of the information from the appropriate court, prior to allowing the individual to serve as a flightcrew member.

(2) If no notification, as described in paragraph (f)(1) of this section, is received within 30 days, the aircraft operator may make a final determination to deny the individual flightcrew member status.

(g) *Limits on the dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section. No person may disseminate the results of a CHRC to anyone other than—

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

(2) Others designated by TSA.

(h) *Recordkeeping*—(1) *Fingerprint application process.* The aircraft operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct aircraft operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(2) *Protection of records.* The records required by this section must be maintained by the aircraft operator in a manner that is acceptable to TSA that protects the confidentiality of the individual.

(3) *Duration.* The records identified in this section with regard to an individual must be made available upon request by TSA, and maintained by the aircraft operator until 180 days after the termination of the individual's privileges to perform flightcrew member duties with the aircraft operator. When files are no longer maintained, the aircraft operator must destroy the CHRC results.

(i) *Continuing responsibilities.* (1) Each flightcrew member identified in paragraph (a) of this section who has a disqualifying criminal offense must report the offense to the aircraft operator within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(2) If information becomes available to the aircraft operator indicating that a flightcrew member identified in paragraph (a) of this section has a possible conviction for any disqualifying criminal offense in §1544.229 (d), the aircraft operator must determine the status of the conviction. If a disqualifying criminal offense is confirmed, the aircraft operator may not assign that individual to flightcrew duties in operations identified in paragraph (a).

(j) *Aircraft operator responsibility.* The aircraft operator must—(1) Designate a direct employee to maintain, control, and, as appropriate, destroy criminal records.

(2) Designate an individual(s) to maintain the CHRC results.

(3) Designate an individual(s) at appropriate locations to receive notification from individuals of their intent to seek correction of their FBI criminal record.

(k) *Compliance date.* Each aircraft operator must comply with this section for each flightcrew member described in paragraph (a) of this section not later than December 6, 2002.

[67 FR 8209, Feb. 22, 2002]

§ 1544.231 Airport-approved and exclusive area personnel identification systems.

(a) Each aircraft operator must establish and carry out a personnel identification system for identification media that are airport-approved, or identification media that are issued for use in an exclusive area. The system must include the following:

(1) Personnel identification media that—

(i) Convey a full face image, full name, employer, and identification number of the individual to whom the identification medium is issued;

(ii) Indicate clearly the scope of the individual's access and movement privileges;

(iii) Indicate clearly an expiration date; and

(iv) Are of sufficient size and appearance as to be readily observable for challenge purposes.

(2) Procedures to ensure that each individual in the secured area or SIDA continuously displays the identification medium issued to that individual

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on the outermost garment above waist level, or is under escort.

(3) Procedures to ensure accountability through the following:

(i) Retrieving expired identification media.

(ii) Reporting lost or stolen identification media.

(iii) Securing unissued identification media stock and supplies.

(iv) Auditing the system at a minimum of once a year, or sooner, as necessary to ensure the integrity and accountability of all identification media.

(v) As specified in the aircraft operator security program, revalidate the identification system or reissue identification media if a portion of all issued, unexpired identification media are lost, stolen, or unretrieved, including identification media that are combined with access media.

(vi) Ensure that only one identification medium is issued to an individual at a time. A replacement identification medium may only be issued if an individual declares in writing that the medium has been lost or stolen.

(b) The aircraft operator may request approval of a temporary identification media system that meets the standards in §1542.211(b) of this chapter, or may arrange with the airport to use temporary airport identification media in accordance with that section.

(c) Each aircraft operator must submit a plan to carry out this section to TSA no later than May 13, 2002. Each aircraft operator must fully implement its plan no later than November 14, 2003.

§ 1544.233 Security coordinators and crewmembers, training.

(a) No aircraft operator may use any individual as a Ground Security Coordinator unless, within the preceding 12-calendar months, that individual has satisfactorily completed the security training as specified in the aircraft operator's security program.

(b) No aircraft operator may use any individual as an in-flight security coordinator or crewmember on any domestic or international flight unless, within the preceding 12-calendar months or within the time period specified in an Advanced Qualifications Program ap-

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proved under SFAR 58 in 14 CFR part 121, that individual has satisfactorily completed the security training required by 14 CFR 121.417(b)(3)(v) or 135.331(b)(3)(v), and as specified in the aircraft operator's security program.

(c) With respect to training conducted under this section, whenever an individual completes recurrent training within one calendar month earlier, or one calendar month after the date it was required, that individual is considered to have completed the training in the calendar month in which it was required.

§ 1544.235 Training and knowledge for individuals with security-related duties.

(a) No aircraft operator may use any direct or contractor employee to perform any security-related duties to meet the requirements of its security program unless that individual has received training as specified in its security program including their individual responsibilities in §1540.105 of this chapter.

(b) Each aircraft operator must ensure that individuals performing security-related duties for the aircraft operator have knowledge of the provisions of this part, applicable Security Directives and Information Circulars, the approved airport security program applicable to their location, and the aircraft operator's security program to the extent that such individuals need to know in order to perform their duties.

§ 1544.237 Flight deck privileges.

(a) For each aircraft that has a door to the flight deck, each aircraft operator must restrict access to the flight deck as provided in its security program.

(b) This section does not restrict access for an FAA air carrier inspector, an authorized representative of the National Transportation Safety Board, or for an Agent of the United States Secret Service, under 14 CFR parts 121, 125, or 135. This section does not restrict access for a Federal Air Marshal under this part.

[67 FR 8210, Feb. 22, 2002]

§ 1544.239 Known shipper program.

This section applies to each aircraft operator operating under a full program under § 1544.101(a) of this part and to each aircraft operator with a TSA security program approved for transfer of cargo to an aircraft operator with a full program or a foreign air carrier under paragraphs § 1546.101(a) or (b) of this chapter.

(a) For cargo to be loaded on its aircraft in the United States, each aircraft operator must have and carry out a known shipper program in accordance with its security program. The program must—

(1) Determine the shipper's validity and integrity as provided in the security program;

(2) Provide that the aircraft operator will separate known shipper cargo from unknown shipper cargo; and

(3) Provide for the aircraft operator to ensure that cargo is screened or inspected as set forth in its security program.

(b) When required by TSA, each aircraft operator must submit in a form and manner acceptable to TSA—

(1) Information identified in its security program regarding a known shipper, or an applicant for that status; and

(2) Corrections and updates of this information upon learning of a change to the information specified in paragraph (b)(1) of this section.

[71 FR 30511, May 26, 2006]

Subpart D—Threat and Threat Response

§ 1544.301 Contingency plan.

Each aircraft operator must adopt a contingency plan and must:

(a) Implement its contingency plan when directed by TSA.

(b) Ensure that all information contained in the plan is updated annually and that appropriate persons are notified of any changes.

(c) Participate in an airport-sponsored exercise of the airport contingency plan or its equivalent, as provided in its security program.

§ 1544.303 Bomb or air piracy threats.

(a) *Flight: Notification.* Upon receipt of a specific and credible threat to the

security of a flight, the aircraft operator must—

(1) Immediately notify the ground and in-flight security coordinators of the threat, any evaluation thereof, and any measures to be applied; and

(2) Ensure that the in-flight security coordinator notifies all crewmembers of the threat, any evaluation thereof, and any measures to be applied; and

(3) Immediately notify the appropriate airport operator.

(b) *Flight: Inspection.* Upon receipt of a specific and credible threat to the security of a flight, each aircraft operator must attempt to determine whether or not any explosive or incendiary is present by doing the following:

(1) Conduct a security inspection on the ground before the next flight or, if the aircraft is in flight, immediately after its next landing.

(2) If the aircraft is on the ground, immediately deplane all passengers and submit that aircraft to a security search.

(3) If the aircraft is in flight, immediately advise the pilot in command of all pertinent information available so that necessary emergency action can be taken.

(c) *Ground facility.* Upon receipt of a specific and credible threat to a specific ground facility at the airport, the aircraft operator must:

(1) Immediately notify the appropriate airport operator.

(2) Inform all other aircraft operators and foreign air carriers at the threatened facility.

(3) Conduct a security inspection.

(d) *Notification.* Upon receipt of any bomb threat against the security of a flight or facility, or upon receiving information that an act or suspected act of air piracy has been committed, the aircraft operator also must notify TSA. If the aircraft is in airspace under other than U.S. jurisdiction, the aircraft operator must also notify the appropriate authorities of the State in whose territory the aircraft is located and, if the aircraft is in flight, the appropriate authorities of the State in whose territory the aircraft is to land. Notification of the appropriate air traffic controlling authority is sufficient action to meet this requirement.

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§ 1544.305 Security Directives and Information Circulars.

(a) TSA may issue an Information Circular to notify aircraft operators of security concerns. When TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation, TSA issues a Security Directive setting forth mandatory measures.

(b) Each aircraft operator required to have an approved aircraft operator security program must comply with each Security Directive issued to the aircraft operator by TSA, within the time prescribed in the Security Directive for compliance.

(c) Each aircraft operator that receives a Security Directive must—

(1) Within the time prescribed in the Security Directive, verbally acknowledge receipt of the Security Directive to TSA.

(2) Within the time prescribed in the Security Directive, specify the method by which the measures in the Security Directive have been implemented (or will be implemented, if the Security Directive is not yet effective).

(d) In the event that the aircraft operator is unable to implement the measures in the Security Directive, the aircraft operator must submit proposed alternative measures and the basis for submitting the alternative measures to TSA for approval. The aircraft operator must submit the proposed alternative measures within the time prescribed in the Security Directive. The aircraft operator must implement any alternative measures approved by TSA.

(e) Each aircraft operator that receives a Security Directive may comment on the Security Directive by submitting data, views, or arguments in writing to TSA. TSA may amend the Security Directive based on comments received. Submission of a comment does not delay the effective date of the Security Directive.

(f) Each aircraft operator that receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular must:

(1) Restrict the availability of the Security Directive or Information Circular, and information contained in ei-

ther document, to those persons with an operational need-to-know.

(2) Refuse to release the Security Directive or Information Circular, and information contained in either document, to persons other than those with an operational need-to-know without the prior written consent of TSA.

Subpart E—Screener Qualifications When the Aircraft Operator Performs Screening

§ 1544.401 Applicability of this subpart.

This subpart applies when the aircraft operator is conducting inspections as provided in § 1544.207.

[74 FR 47704, Sept. 16, 2009]

§ 1544.403 [Reserved]

§ 1544.405 Qualifications of screening personnel.

(a) No individual subject to this subpart may perform a screening function unless that individual has the qualifications described in §§ 1544.405 through 1544.411. No aircraft operator may use such an individual to perform a screening function unless that person complies with the requirements of §§ 1544.405 through 1544.411.

(b) A screener must have a satisfactory or better score on a screener selection test administered by TSA.

(c) A screener must be a citizen of the United States.

(d) A screener must have a high school diploma, a General Equivalency Diploma, or a combination of education and experience that the TSA has determined to be sufficient for the individual to perform the duties of the position.

(e) A screener must have basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(1) Screeners operating screening equipment must be able to distinguish on the screening equipment monitor the appropriate imaging standard specified in the aircraft operator's security program.

(2) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of

screening equipment and explain what each color signifies.

(3) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment at an active screening location.

(4) Screeners who perform physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, cargo, and other objects subject to screening.

(5) Screeners who perform pat-downs or hand-held metal detector searches of individuals must have sufficient dexterity and capability to thoroughly conduct those procedures over an individual's entire body.

(f) A screener must have the ability to read, speak, and write English well enough to—

(1) Carry out written and oral instructions regarding the proper performance of screening duties;

(2) Read English language identification media, credentials, airline tickets, documents, air waybills, invoices, and labels on items normally encountered in the screening process;

(3) Provide direction to and understand and answer questions from English-speaking individuals undergoing screening; and

(4) Write incident reports and statements and log entries into security records in the English language.

(g) At locations outside the United States where the aircraft operator has operational control over a screening function, the aircraft operator may use screeners who do not meet the requirements of paragraph (f) of this section, provided that at least one representative of the aircraft operator who has the ability to functionally read and speak English is present while the aircraft operator's passengers are undergoing security screening. At such locations the aircraft operator may use screeners who are not United States citizens.

§ 1544.407 Training, testing, and knowledge of individuals who perform screening functions.

(a) *Training required.* Before performing screening functions, an individual must have completed initial, re-

current, and appropriate specialized training as specified in this section and the aircraft operator's security program. No aircraft operator may use any screener, screener in charge, or checkpoint security supervisor unless that individual has satisfactorily completed the required training. This paragraph does not prohibit the performance of screening functions during on-the-job training as provided in § 1544.409 (b).

(b) *Use of training programs.* Training for screeners must be conducted under programs provided by TSA. Training programs for screeners-in-charge and checkpoint security supervisors must be conducted in accordance with the aircraft operator's security program.

(c) *Citizenship.* A screener must be a citizen or national of the United States.

(d) *Screener readiness test.* Before beginning on-the-job training, a screener trainee must pass the screener readiness test prescribed by TSA.

(e) *On-the-job training and testing.* Each screener must complete at least 60 hours of on-the-job training and must pass an on-the-job training test prescribed by TSA. No aircraft operator may permit a screener trainee to exercise independent judgment as a screener, until the individual passes an on-the-job training test prescribed by TSA.

(f) *Knowledge requirements.* Each aircraft operator must ensure that individuals performing as screeners, screeners-in-charge, and checkpoint security supervisors for the aircraft operator have knowledge of the provisions of this part, the aircraft operator's security program, and applicable Security Directives and Information Circulars to the extent necessary to perform their duties.

(g) *Disclosure of sensitive security information during training.* The aircraft operator may not permit a trainee to have access to sensitive security information during screener training unless a criminal history records check has successfully been completed for that individual in accordance with § 1544.229, and the individual has no disqualifying criminal offense.

[67 FR 8364, Feb. 22, 2002, as amended at 74 FR 47704, Sept. 16, 2009]

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§ 1544.409 Integrity of screener tests.

(a) *Cheating or other unauthorized conduct.* (1) Except as authorized by the TSA, no person may—

(i) Copy or intentionally remove a test under this part;

(ii) Give to another or receive from another any part or copy of that test;

(iii) Give help on that test to or receive help on that test from any person during the period that the test is being given; or

(iv) Use any material or aid during the period that the test is being given.

(2) No person may take any part of that test on behalf of another person.

(3) No person may cause, assist, or participate intentionally in any act prohibited by this paragraph (a).

(b) *Administering and monitoring screener tests.* (1) Each aircraft operator must notify TSA of the time and location at which it will administer each screener readiness test required under § 1544.405(d).

(2) Either TSA or the aircraft operator must administer and monitor the screener readiness test. Where more than one aircraft operator or foreign air carrier uses a screening location, TSA may authorize an employee of one or more of the aircraft operators or foreign air carriers to monitor the test for a trainee who will screen at that location.

(3) If TSA or a representative of TSA is not available to administer and monitor a screener readiness test, the aircraft operator must provide a direct employee to administer and monitor the screener readiness test.

(4) An aircraft operator employee who administers and monitors a screener readiness test must not be an instructor, screener, screener-in-charge, checkpoint security supervisor, or other screening supervisor. The employee must be familiar with the procedures for administering and monitoring the test and must be capable of observing whether the trainee or others are engaging in cheating or other unauthorized conduct.

§ 1544.411 Continuing qualifications of screening personnel.

(a) *Impairment.* No individual may perform a screening function if he or she shows evidence of impairment,

such as impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(b) *Training not complete.* An individual who has not completed the training required by § 1544.405 may be deployed during the on-the-job portion of training to perform security functions provided that the individual—

(1) Is closely supervised; and

(2) Does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(c) *Failure of operational test.* No aircraft operator may use an individual to perform a screening function after that individual has failed an operational test related to that function, until that individual has successfully completed the remedial training specified in the aircraft operator's security program.

(d) *Annual proficiency review.* Each individual assigned screening duties shall receive an annual evaluation. The aircraft operator must ensure that a Ground Security Coordinator conducts and documents an annual evaluation of each individual who performs screening functions. An individual who performs screening functions may not continue to perform such functions unless the evaluation demonstrates that the individual—

(1) Continues to meet all qualifications and standards required to perform a screening function;

(2) Has a satisfactory record of performance and attention to duty based on the standards and requirements in the aircraft operator's security program; and

(3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

PART 1546—FOREIGN AIR CARRIER SECURITY

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SOURCE: 67 FR 8377, Feb. 22, 2002, unless otherwise noted.

Subpart A—General

§ 1546.1 Applicability of this part.

This part prescribes aviation security rules governing the following:

- (a) The operation within the United States of each foreign air carrier holding a permit issued by the Department of Transportation under 49 U.S.C. 41302 or other appropriate authority issued by the former Civil Aeronautics Board or the Department of Transportation.
- (b) Each law enforcement officer flying armed aboard an aircraft operated by a foreign air carrier described in paragraph (a) of this section.

§ 1546.3 TSA inspection authority.

(a) Each foreign air carrier must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

- (1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and
- (2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each foreign air carrier must provide evidence of compliance with this subchapter and its security program, including copies of records.

(c) TSA may enter and be present within secured areas, AOAs, SIDAs, and other areas where security measures required by TSA are carried out, without access media or identification media issued or approved by an airport operator or aircraft operator, in order to inspect or test compliance, or perform other such duties as TSA may direct.

[67 FR 8377, Feb. 22, 2002, as amended at 71 FR 30511, May 26, 2006]

Subpart B—Security Program

§ 1546.101 Adoption and implementation.

Each foreign air carrier landing or taking off in the United States must adopt and carry out, for each scheduled and public charter passenger operation or all-cargo operation, a security program that meets the requirements of—

- (a) Section 1546.103(b) and subparts C, D, and E of this part for each operation with an aircraft having a passenger seating configuration of 61 or more seats;
- (b) Section 1546.103(b) for each operation that will provide deplaned passengers access to a sterile area, or enplane passengers from a sterile area, when that access is not controlled by an aircraft operator using a security program under part 1544 of this chapter or a foreign air carrier using a security program under this part;

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(c) Section 1546.103(b) for each operation with an airplane having a passenger seating configuration of 31 or more seats but 60 or fewer seats for which TSA has notified the foreign air carrier in writing that a threat exists; and

(d) Section 1546.103(c) for each operation with an airplane having a passenger seating configuration of 31 or more seats but 60 or fewer seats, when TSA has not notified the foreign air carrier in writing that a threat exists with respect to that operation.

(e) Sections 1546.103(b)(2) and (b)(4), 1546.202, 1546.205(a), (b), (c), (d), (e), and (f), 1546.207, 1546.211, 1546.213, and 1546.301 for each all-cargo operation with an aircraft having a maximum certificated take-off weight more than 45,500 kg (100,309.3 lbs.); and

(f) Sections 1546.103(b)(2) and (b)(4), 1546.202, 1546.205(a), (b), (d), and (f), 1546.211, and 1546.301 for each all-cargo operation with an aircraft having a maximum certificated take-off weight more than 12,500 pounds but not more than 45,500 kg (100,309.3 lbs.).

[67 FR 8377, Feb. 22, 2002, as amended at 71 FR 30511, May 26, 2006]

§ 1546.103 Form, content, and availability of security program.

(a) *General requirements.* The security program must be:

(1) *Acceptable to TSA.* A foreign air carrier's security program is acceptable only if TSA finds that the security program provides a level of protection similar to the level of protection provided by U.S. aircraft operators serving the same airports. Foreign air carriers must employ procedures equivalent to those required of U.S. aircraft operators serving the same airport, if TSA determines that such procedures are necessary to provide a similar level of protection.

(2) In English unless TSA requests that the program be submitted in the official language of the foreign air carrier's country.

(b) *Content of security program.* Each security program required by § 1546.101(a), (b), (c), (e), or (f) must be designed to—

(1) Prevent or deter the carriage aboard airplanes of any unauthorized explosive, incendiary, or weapon on or

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about each individual's person or accessible property, except as provided in § 1546.201(d), through screening by weapon-detecting procedures or facilities;

(2) Prohibit unauthorized access to airplanes;

(3) Ensure that checked baggage is accepted by a responsible agent of the foreign air carrier; and

(4) Prevent cargo and checked baggage from being loaded aboard its airplanes unless handled in accordance with the foreign air carrier's security procedures.

(c) *Law enforcement support.* Each security program required by § 1546.101(d) must include the procedures used to comply with the applicable requirements of § 1546.209 regarding law enforcement officers.

(d) *Availability.* Each foreign air carrier required to adopt and use a security program under this part must—

(1) Restrict the distribution, disclosure, and availability of sensitive security information, as defined in part 1520 of this chapter, to persons with a need to know; and

(2) Refer requests for sensitive security information by other persons to TSA.

[67 FR 8377, Feb. 22, 2002, as amended at 71 FR 30512, May 26, 2006]

§ 1546.105 Acceptance of and amendments to the security program.

(a) *Initial acceptance of security program.* Unless otherwise authorized by TSA, each foreign air carrier required to have a security program by this part must submit its proposed program to TSA at least 90 days before the intended date of passenger operations. TSA will notify the foreign air carrier of the security program's acceptability, or the need to modify the proposed security program for it to be acceptable under this part, within 30 days after receiving the proposed security program. The foreign air carrier may petition TSA to reconsider the notice to modify the security program within 30 days after receiving a notice to modify.

(b) *Amendment requested by a foreign air carrier.* A foreign air carrier may submit a request to TSA to amend its accepted security program as follows:

(1) The proposed amendment must be filed with the designated official at least 45 calendar days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 calendar days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to a foreign air carrier security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 45 calendar days after receiving a denial, the foreign air carrier may petition the Administrator to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the Administrator for reconsideration. The Administrator disposes of the petition within 30 calendar days of receipt by either directing the designated official to approve the amendment, or affirming the denial.

(6) Any foreign air carrier may submit a group proposal for an amendment that is on behalf of it and other aircraft operators that co-sign the proposal.

(c) *Amendment by TSA.* If the safety and the public interest require an amendment, the designated official may amend an accepted security program as follows:

(1) The designated official notifies the foreign air carrier, in writing, of the proposed amendment, fixing a period of not less than 45 calendar days within which the foreign air carrier may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the foreign air carrier of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 calendar days

after the foreign air carrier receives the notice of amendment, unless the foreign air carrier petitions the Administrator to reconsider no later than 15 calendar days before the effective date of the amendment. The foreign air carrier must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice or transmits the petition, together with any pertinent information, to the Administrator for reconsideration. The Administrator disposes of the petition within 30 calendar days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* If the designated official finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, without the prior notice and comment procedures in paragraph (c) of this section, effective without stay on the date the foreign air carrier receives notice of it. In such a case, the designated official will incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The foreign air carrier may file a petition for reconsideration under paragraph (c) of this section; however, this does not stay the effectiveness of the emergency amendment.

Subpart C—Operations

§ 1546.201 Acceptance and screening of individuals and accessible property.

(a) *Preventing or deterring the carriage of any explosive, incendiary, or weapon.* Unless otherwise authorized by TSA, each foreign air carrier must use the measures in its security program to prevent or deter the carriage of any explosive, incendiary, or weapon on or about each individual's person or accessible property before boarding an aircraft or entering a sterile area.

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(b) *Screening of individuals and accessible property.* Except as provided in its security program, each foreign air carrier must ensure that each individual entering a sterile area at each preboard screening checkpoint for which it is responsible, and all accessible property under that individual's control, are inspected for weapons, explosives, and incendiaries as provided in § 1546.207.

(c) *Refusal to transport.* Each foreign air carrier conducting an operation for which a security program is required by § 1546.101(a), (b), or (c) must refuse to transport—

(1) Any individual who does not consent to a search or inspection of his or her person in accordance with the system prescribed in this part; and

(2) Any property of any individual or other person who does not consent to a search or inspection of that property in accordance with the system prescribed by this part.

(d) *Explosive, incendiary, weapon: Prohibitions and exceptions.* No individual may, while on board an aircraft being operated by a foreign air carrier in the United States, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph (d) does not apply to—

(1) Officials or employees of the state of registry of the aircraft who are authorized by that state to carry arms; and

(2) Crewmembers and other individuals authorized by the foreign air carrier to carry arms.

§ 1546.202 Persons and property onboard the aircraft.

Each foreign air carrier operating under § 1546.101(e) or (f) must apply the security measures in its security program for persons who board the aircraft for transportation, and for their property, to prevent or deter the carriage of any unauthorized persons, and any unauthorized weapons, explosives, incendiaries, and other destructive devices, items, or substances.

[71 FR 30512, May, 26, 2006]

§ 1546.203 Acceptance and screening of checked baggage.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each foreign air carrier must use the proce-

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dures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary onboard aircraft in checked baggage.

(b) *Refusal to transport.* Each foreign air carrier must refuse to transport any individual's checked baggage or property if the individual does not consent to a search or inspection of that checked baggage or property in accordance with the system prescribed by this part.

(c) *Firearms in checked baggage.* No foreign air carrier may knowingly permit any person to transport, nor may any person transport, while aboard an aircraft being operated in the United States by that carrier, in checked baggage, a firearm, unless:

(1) The person has notified the foreign air carrier before checking the baggage that the firearm is in the baggage; and

(2) The baggage is carried in an area inaccessible to passengers.

§ 1546.205 Acceptance and screening of cargo.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each foreign air carrier operating a program under § 1546.101(a), (b), (e), or (f) must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized person, and any unauthorized explosive, incendiary, and other destructive substance or item in cargo onboard an aircraft.

(b) *Refusal to transport.* Each foreign air carrier operating a program under § 1546.101(a), (b), (e), or (f) must refuse to transport any cargo, if the shipper does not consent to a search or inspection of that cargo in accordance with the system prescribed by this part.

(c) *Control.* Each foreign air carrier operating a program under § 1546.101(a), (b), or (e) must use the procedures in its security program to control cargo that it accepts for transport on an aircraft in a manner that—

(1) Prevents the carriage of any unauthorized person, and any unauthorized explosive, incendiary, and other destructive substance or item onboard the aircraft.

(2) Prevents access by unauthorized persons other than an authorized foreign air carrier employee or agent, or persons authorized by the airport operator or host government.

(d) *Screening and inspection of cargo in the United States.* For cargo to be loaded in the United States, each foreign air carrier operating a program under §1546.101(1)(a), (b), (e), or (f) must ensure that cargo is screened and inspected for any unauthorized person, and any unauthorized explosive, incendiary, and other destructive substances or items as provided in the foreign air carrier's security program and §1546.207, and as provided in §1546.213 for operations under §1546.101(a) or (b), before loading it on its aircraft in the United States.

(e) *Acceptance of cargo only from specified persons.* Except as otherwise provided in its program, each foreign air carrier operating a program under §1546.101(a), (b), (e) or (f) may accept cargo for air transportation to be loaded in the United States only from the shipper, or from an aircraft operator, foreign air carrier, or indirect air carrier operating under a security program under this chapter with a comparable cargo security program, or, in the case of a foreign air carrier under §1546.101(a) or (b), from a certified cargo screening facility, as provided in its security program.

(f) *Acceptance of cargo to be loaded for transport to the United States.* Each foreign air carrier subject to this part that accepts cargo to be loaded on its aircraft for transport to the United States must carry out the requirements of its security program.

(g) *Screening of cargo loaded inside the United States under §1546.101(a) or (b).* For cargo to be loaded in the United States, each foreign air carrier under §1546.101(a) or (b) must ensure that all cargo is screened in the United States as follows:

(1) *Amount screened.* (i) Not later than February 3, 2009, each foreign air carrier must ensure that at least 50 percent of its cargo is screened prior to transport on a passenger aircraft.

(ii) Not later than August 3, 2010, each foreign air carrier must ensure that 100 percent of its cargo is screened

prior to transport on a passenger aircraft.

(2) *Methods of screening.* For the purposes of this paragraph (g), the foreign air carrier must ensure that cargo is screened using a physical examination or non-intrusive method of assessing whether cargo poses a threat to transportation security, as provided in its security program. Such methods may include TSA-approved x-ray systems, explosives detection systems, explosives trace detection, explosives detection canine teams certified by TSA, a physical search together with manifest verification, or other method approved by TSA.

(3) *Limitation on who may conduct screening.* Screening must be conducted by the foreign air carrier, by another aircraft operator or foreign air carrier operating under a security program under this chapter with a comparable cargo security program, by a certified cargo screening facility in accordance with 49 CFR part 1549, or by TSA.

(4) The foreign air carrier must verify that the chain of custody measures for the screened cargo are intact prior to loading such cargo on aircraft, or must ensure that the cargo is re-screened in accordance with this chapter.

[71 FR 30512, May 26, 2006, as amended at 74 FR 47704, Sept. 16, 2009; 76 FR 51868, Aug. 18, 2011; 76 FR 53081, Aug. 25, 2011]

§ 1546.207 Screening of individuals and property.

(a) *Applicability of this section.* This section applies to the inspection of individuals, accessible property, checked baggage, and cargo as required under this part.

(b) *Locations within the United States at which TSA conducts screening.* As required in its security program, each foreign air carrier must ensure that all individuals or property have been inspected by TSA before boarding or loading on its aircraft. This paragraph applies when TSA is conducting screening using TSA employees or when using companies under contract with TSA.

(c) *Foreign air carrier conducting screening.* Each foreign air carrier must use the measures in its security program to inspect the individual or property. This paragraph does not apply at

locations identified in paragraphs (b) of this section.

§ 1546.209 Use of X-ray systems.

(a) *TSA authorization required.* No foreign air carrier may use any X-ray system within the United States to screen accessible property or checked baggage, unless specifically authorized under its security program. No foreign air carrier may use such a system in a manner contrary to its security program. TSA authorizes foreign air carriers to use X-ray systems for inspecting accessible property or checked baggage under a security program if the foreign air carrier shows that—

(1) The system meets the standards for cabinet X-ray systems primarily for the inspection of baggage issued by the Food and Drug Administration (FDA) and published in 21 CFR 1020.40;

(2) A program for initial and recurrent training of operators of the system is established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons, explosives, and incendiaries; and

(3) The system meets the imaging requirements set forth in its security program using the step wedge specified in American Society for Testing Materials (ASTM) Standard F792-88 (Reapproved 1993). This standard is incorporated by reference in paragraph (g) of this section.

(b) *Annual radiation survey.* No foreign air carrier may use any X-ray system unless, within the preceding 12 calendar months, a radiation survey is conducted that shows that the system meets the applicable performance standards in 21 CFR 1020.40.

(c) *Radiation survey after installation or moving.* No foreign air carrier may use any X-ray system after the system has been installed at a screening point or after the system has been moved unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40. A radiation survey is not required for an X-ray system that is designed and constructed as a mobile unit and the foreign air carrier shows that it can be moved without altering its performance.

(d) *Defect notice or modification order.* No foreign air carrier may use any X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless the FDA has advised TSA that the defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person.

(e) *Signs and inspection of photographic equipment and film.* (1) At locations at which a foreign air carrier uses an X-ray system to inspect accessible property the foreign air carrier must ensure that a sign is posted in a conspicuous place at the screening checkpoint.

(2) At locations at which a foreign air carrier or TSA uses an X-ray system to inspect checked baggage the foreign air carrier must ensure that a sign is posted in a conspicuous place where the foreign air carrier accepts checked baggage.

(3) The signs required under this paragraph must notify individuals that such items are being inspected by an X-ray and advise them to remove all X-ray, scientific, and high-speed film from accessible property and checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any accessible property or checked baggage to more than one milliroentgen during the inspection, the sign must advise individuals to remove film of all kinds from their articles before inspection.

(4) If requested by individuals, their photographic equipment and film packages must be inspected without exposure to an X-ray system.

(f) *Radiation survey verification after installation or moving.* Each foreign air carrier must maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and must make it available for inspection upon request by TSA at each of the following locations—

(1) The foreign air carrier's principal business office; and

(2) The place where the X-ray system is in operation.

(g) *Incorporation by reference.* The American Society for Testing and Materials (ASTM) Standard F792-88 (Reapproved 1993), “Standard Practice for Design and Use of Ionizing Radiation Equipment for the Detection of Items Prohibited in Controlled Access Areas,” is approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. ASTM Standard F792-88 may be examined at the Department of Transportation (DOT) Docket, 400 Seventh Street SW, Room Plaza 401, Washington, DC 20590, or on DOT’s Docket Management System (DMS) web page at <http://dms.dot.gov/search> (under docket number FAA-2001-8725). Copies of the standard may be examined also at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. In addition, ASTM Standard F792-88 (Reapproved 1993) may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

(h) Each foreign air carrier must comply with the X-ray operator duty time limitations specified in its security program.

[67 FR 8377, Feb. 22, 2002, as amended at 69 FR 18803, Apr. 9, 2004]

§ 1546.211 Law enforcement personnel.

(a) At airports within the United States not governed by part 1542 of this chapter, each foreign air carrier engaging in public charter passenger operations must—

(1) When using a screening system required by § 1546.101(a), (b), or (c), provide for law enforcement officers meeting the qualifications and standards, and in the number and manner, specified in part 1542; and

(2) When using an airplane having a passenger seating configuration of 31 or more but 60 or fewer seats for which a screening system is not required by § 1546.101(a), (b), or (c), arrange for law enforcement officers meeting the quali-

fications and standards specified in part 1542 of this chapter to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(b) At airports governed by part 1542 of this chapter, each foreign air carrier engaging in scheduled passenger operations or public charter passenger operations when using an airplane with a passenger seating configuration of 31 or more and 60 or fewer seats under § 1546.101(c), must arrange for law enforcement personnel meeting the qualifications and standards specified in part 1542 of this chapter to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

§ 1546.213 Access to cargo: Security threat assessments for cargo personnel in the United States.

This section applies in the United States to each foreign air carrier operating under § 1546.101(a), (b), or (e).

(a) Before a foreign air carrier authorizes and before an individual performs a function described in paragraph (b) of this section—

(1) Each individual must successfully complete a security threat assessment or comparable security threat assessment described in part 1540 subpart C of this chapter; and

(2) Each aircraft operator must complete the requirements in part 1540 subpart C.

(b) The security threat assessment required in paragraph (a) of this section applies to the following:

(1) Each individual who has unescorted access to cargo and access to information that such cargo will be transported on a passenger aircraft; or who has unescorted access to cargo that has been screened for transport on a passenger aircraft; or who performs certain functions related to the transportation, dispatch or security of cargo for transport on a passenger aircraft or all-cargo aircraft, as specified in the foreign air craft operator’s or foreign

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air carrier's security program; from the time—

(i) The cargo reaches a location where a foreign air carrier operating under §1546.101(e) consolidates or inspects it pursuant to security program requirements, until the cargo enters an airport Security Identification Display Area or is transferred to another TSA-regulated aircraft operator, foreign air carrier, or indirect air carrier; or

(ii) A foreign air carrier under §§1546.101(a) or (b) accepts the cargo, until the cargo—

(A) Enters an airport Security Identification Display Area;

(B) Is removed from the destination airport; or

(C) Is transferred to another TSA-regulated aircraft operator, foreign air carrier, or indirect air carrier.

(2) Each individual the foreign air carrier authorizes to screen cargo or to supervise the screening of cargo under §1546.205.

[74 FR 47705, Sept. 16, 2009]

§ 1546.215 Known shipper program.

This section applies to each foreign air carrier operating a program under §1546.101(a) or (b).

(a) For cargo to be loaded on its aircraft in the United States, each foreign air carrier must have and carry out a known shipper program in accordance with its security program. The program must—

(1) Determine the shipper's validity and integrity as provided in the foreign air carrier's security program;

(2) Provide that the foreign air carrier will separate known shipper cargo from unknown shipper cargo; and

(3) Provide for the foreign air carrier to ensure that cargo is screened or inspected as set forth in its security program.

(b) When required by TSA, each foreign air carrier must submit in a form and manner acceptable to TSA—

(1) Information identified in its security program regarding an applicant to be a known shipper or a known shipper; and

(2) Corrections and updates to the information upon learning of a change to

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the information specified in paragraph (b)(1) of this section.

[71 FR 30512, May 26, 2006]

Subpart D—Threat and Threat Response

§ 1546.301 Bomb or air piracy threats.

No foreign air carrier may land or take off an airplane in the United States after receiving a bomb or air piracy threat against that airplane, unless the following actions are taken:

(a) If the airplane is on the ground when a bomb threat is received and the next scheduled flight of the threatened airplane is to or from a place in the United States, the foreign air carrier ensures that the pilot in command is advised to submit the airplane immediately for a security inspection and an inspection of the airplane is conducted before the next flight.

(b) If the airplane is in flight to a place in the United States when a bomb threat is received, the foreign air carrier ensures that the pilot in command is advised immediately to take the emergency action necessary under the circumstances and a security inspection of the airplane is conducted immediately after the next landing.

(c) If information is received of a bomb or air piracy threat against an airplane engaged in an operation specified in paragraph (a) or (b) of this section, the foreign air carrier ensures that notification of the threat is given to the appropriate authorities of the State in whose territory the airplane is located or, if in flight, the appropriate authorities of the State in whose territory the airplane is to land.

[67 FR 8377, Feb. 22, 2002, as amended at 71 FR 30513, May 26, 2006]

Subpart E—Screener Qualifications When the Foreign Air Carrier Conducts Screening

§ 1546.401 Applicability of this subpart.

This subpart applies when the aircraft operator is conducting inspections as provided in §1546.207.

[74 FR 47705, Sept. 16, 2009]

§ 1546.403 [Reserved]

§ 1546.405 **Qualifications of screening personnel.**

(a) No individual subject to this subpart may perform a screening function unless that individual has the qualifications described in §§ 1546.405 through 1546.411. No foreign air carrier may use such an individual to perform a screening function unless that person complies with the requirements of §§ 1546.405 through 1546.411.

(b) A screener must have a satisfactory or better score on a screener selection test administered by TSA.

(c) A screener must be a citizen of the United States.

(d) A screener must have a high school diploma, a General Equivalency Diploma, or a combination of education and experience that TSA has determined to be sufficient for the individual to perform the duties of the position.

(e) A screener must have basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(1) Screeners operating screening equipment must be able to distinguish on the screening equipment monitor the appropriate imaging standard specified in the foreign air carrier's security program.

(2) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

(3) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment at an active screening location.

(4) Screeners who perform physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, cargo, and other objects subject to screening.

(5) Screeners who perform pat-downs or hand-held metal detector searches of individuals must have sufficient dexterity and capability to thoroughly conduct those procedures over an individual's entire body.

(f) A screener must have the ability to read, speak, and write English well enough to—

(1) Carry out written and oral instructions regarding the proper performance of screening duties;

(2) Read English language identification media, credentials, airline tickets, documents, air waybills, invoices, and labels on items normally encountered in the screening process;

(3) Provide direction to and understand and answer questions from English-speaking individuals undergoing screening; and

(4) Write incident reports and statements and log entries into security records in the English language.

(g) At locations outside the United States that are the last point of departure to the United States, and where the foreign air carrier has operational control over a screening function, the foreign air carrier may use screeners who do not meet the requirements of paragraph (f) of this section. At such locations the foreign air carrier may use screeners who are not United States citizens.

§ 1546.407 **Training, testing, and knowledge of individuals who perform screening functions.**

(a) *Training required.* Before performing screening functions, an individual must have completed initial, recurrent, and appropriate specialized training as specified in this section and the foreign air carrier's security program. No foreign air carrier may use any screener, screener in charge, or checkpoint security supervisor unless that individual has satisfactorily completed the required training. This paragraph does not prohibit the performance of screening functions during on-the-job training as provided in § 1544.409(b).

(b) *Use of training programs.* Training for screeners must be conducted under programs provided by TSA. Training programs for screeners-in-charge and checkpoint security supervisors must be conducted in accordance with the foreign air carrier's security program.

(c) *Classroom instruction.* Each screener must complete at least 40 hours of classroom instruction or successfully

complete a program that TSA determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction.

(d) *Screener readiness test.* Before beginning on-the-job training, a screener trainee must pass the screener readiness test prescribed by TSA.

(e) *On-the-job training and testing.* Each screener must complete at least 60 hours of on-the-job training and must pass an on-the-job training test prescribed by TSA. No foreign air carrier may permit a screener trainee to exercise independent judgment as a screener, until the individual passes an on-the-job training test prescribed by TSA.

(f) *Knowledge requirements.* Each foreign air carrier must ensure that individuals performing as screeners, screeners-in-charge, and checkpoint security supervisors for the foreign air carrier have knowledge of the provisions of this part, the foreign air carrier's security program, and applicable emergency amendments to the foreign air carrier's security program to the extent necessary to perform their duties.

§ 1546.409 Integrity of screener tests.

(a) *Cheating or other unauthorized conduct.* (1) Except as authorized by TSA, no person may—

- (i) Copy or intentionally remove a test under this part;
- (ii) Give to another or receive from another any part or copy of that test;
- (iii) Give help on that test to or receive help on that test from any person during the period that the test is being given; or
- (iv) Use any material or aid during the period that the test is being given.

(2) No person may take any part of that test on behalf of another person.

(3) No person may cause, assist, or participate intentionally in any act prohibited by this paragraph (a).

(b) *Administering and monitoring screener tests.* (1) Each foreign air carrier must notify TSA of the time and location at which it will administer each screener readiness test required under § 1544.405 (d).

(2) Either TSA or the foreign air carrier must administer and monitor the

screener readiness test. Where more than one foreign air carrier or foreign air carrier uses a screening location, TSA may authorize an employee of one or more of the foreign air carriers or foreign air carriers to monitor the test for a trainee who will screen at that location.

(3) If TSA or a representative of TSA is not available to administer and monitor a screener readiness test, the foreign air carrier must provide a direct employee to administer and monitor the screener readiness test.

(4) An foreign air carrier employee who administers and monitors a screener readiness test must not be an instructor, screener, screener-in-charge, checkpoint security supervisor, or other screening supervisor. The employee must be familiar with the procedures for administering and monitoring the test and must be capable of observing whether the trainee or others are engaging in cheating or other unauthorized conduct.

§ 1546.411 Continuing qualifications of screening personnel.

(a) *Impairment.* No individual may perform a screening function if he or she shows evidence of impairment, such as impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(b) *Training not complete.* An individual who has not completed the training required by § 1546.405 may be deployed during the on-the-job portion of training to perform security functions provided that the individual—

- (1) Is closely supervised; and
- (2) Does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(c) *Failure of operational test.* No foreign air carrier may use an individual to perform a screening function after that individual has failed an operational test related to that function, until that individual has successfully completed the remedial training specified in the foreign air carrier's security program.

(d) *Annual proficiency review.* Each individual assigned screening duties shall

receive an annual evaluation. The foreign air carrier must conduct and document an annual evaluation of each individual who performs screening functions. An individual who performs screening functions may not continue to perform such functions unless the evaluation demonstrates that the individual—

(1) Continues to meet all qualifications and standards required to perform a screening function;

(2) Has a satisfactory record of performance and attention to duty based on the standards and requirements in the foreign air carrier's security program; and

(3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

PART 1548—INDIRECT AIR CARRIER SECURITY

Sec.

1548.1 Applicability of this part.

1548.3 TSA inspection authority.

1548.5 Adoption and implementation of the security program.

1548.7 Approval, amendment, annual renewal, and withdrawal of approval of the security program.

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1548.13 Security coordinators.

1548.15 Access to cargo: Security threat assessments for individuals having unescorted access to cargo.

1548.16 Security threat assessments for each proprietor, general partner, officer, director, and certain owners of the entity.

1548.17 Known shipper program.

1548.19 Security Directives and Information Circulars.

1548.21 Screening of cargo.

AUTHORITY: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44913–44914, 44916–44917, 44932, 44935–44936, 46105.

SOURCE: 67 FR 8382, Feb. 22, 2002, unless otherwise noted.

§ 1548.1 Applicability of this part.

This part prescribes aviation security rules governing each indirect air carrier engaged indirectly in the air transportation of property on aircraft.

[67 FR 8382, Feb. 22, 2002, as amended at 71 FR 33255, June 8, 2006]

§ 1548.3 TSA inspection authority.

(a) Each indirect air carrier must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or airport tenant with—

(1) This subchapter, and any security program approved under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each indirect air carrier must provide evidence of compliance with this subchapter and its indirect air carrier security program, including copies of records.

(c) TSA may enter and be present within areas where security measures required by TSA are carried out without access media or identification media issued or approved by the indirect air carrier, an airport operator, or aircraft operator, in order to inspect or test compliance, or perform other such duties as TSA may direct.

[67 FR 8382, Feb. 22, 2002, as amended at 71 FR 30513, May 26, 2006]

§ 1548.5 Adoption and implementation of the security program.

(a) *Security program required.* No indirect air carrier may offer cargo to an aircraft operator operating under a full program or a full all-cargo program specified in part 1544 of this subchapter, or to a foreign air carrier operating under a program under §1546.101(a), (b), or (e) of this subchapter, unless that indirect air carrier has and carries out an approved security program under this part. Each indirect air carrier that does not currently hold a security program under part 1548, and that offers cargo to an aircraft operator operating under a full all-cargo program or a comparable operation by a foreign air carrier must comply with this section not later than December 1, 2006.

(b) *General requirements.* (1) The security program must provide for the security of the aircraft, as well as that of persons and property traveling in air transportation against acts of criminal violence and air piracy and against the

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introduction into the aircraft of any unauthorized person, and any unauthorized explosive, incendiary, and other destructive substance or item as provided in the indirect air carrier's security program. This requirement applies—

(i) From the time the indirect air carrier accepts the cargo to the time it transfers the cargo to an entity that is not an employee or agent of the indirect air carrier;

(ii) While the cargo is stored, en route, or otherwise being handled by an employee or agent of the indirect air carrier; and

(iii) Regardless of whether the indirect air carrier has or ever had physical possession of the cargo.

(2) The indirect air carrier must ensure that its employees and agents carry out the requirements of this chapter and the indirect air carrier's security program.

(c) *Content.* Each security program under this part must—

(1) Be designed to prevent or deter the introduction of any unauthorized person, and any unauthorized explosive, incendiary, and other destructive substance or item onto an aircraft.

(2) Include the procedures and description of the facilities and equipment used to comply with the requirements of §§ 1548.9 and 1548.17 regarding the acceptance and offering of cargo.

(3) Include the procedures and syllabi used to accomplish the training required under § 1548.11 of persons who accept, handle, transport, or deliver cargo on behalf of the indirect air carrier.

(d) *Availability.* Each indirect air carrier having a security program must:

(1) Maintain an original of the security program at its corporate office.

(2) Have accessible a complete copy, or the pertinent portions of its security program, or appropriate implementing instructions, at each office where cargo is accepted. An electronic version is adequate.

(3) Make a copy of the security program available for inspection upon the request of TSA.

(4) Restrict the distribution, disclosure, and availability of information contained in its security program to

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persons with a need to know, as described in part 1520 of this chapter.

(5) Refer requests for such information by other persons to TSA.

[67 FR 8382, Feb. 22, 2002, as amended at 71 FR 30513, May 26, 2006; 71 FR 31964, June 2, 2006]

§ 1548.7 Approval, amendment, annual renewal, and withdrawal of approval of the security program.

(a) *Original Application*—(1) *Application.* The applicant must apply for a security program in a form and a manner prescribed by TSA not less than 90 calendar days before the applicant intends to begin operations. The application must be in writing and include:

(i) The business name; other names, including doing business as; state of incorporation, if applicable; and tax identification number.

(ii) The applicant names, addresses, and dates of birth of each proprietor, general partner, officer, director, and owner identified under § 1548.16.

(iii) A signed statement from each person listed in paragraph (a)(1)(ii) of this section stating whether he or she has been a proprietor, general partner, officer, director, or owner of an IAC that had its security program withdrawn by TSA.

(iv) Copies of government-issued identification of persons listed in paragraph (a)(1)(ii) of this section.

(v) Addresses of all business locations in the United States.

(vi) A statement declaring whether the business is a “small business” pursuant to section 3 of the Small Business Act (15 U.S.C. 632).

(vii) A statement acknowledging and ensuring that each employee and agent of the indirect air carrier, who is subject to training under § 1548.11, will have successfully completed the training outlined in its security program before performing security-related duties.

(viii) Other information requested by TSA concerning Security Threat Assessments.

(ix) A statement acknowledging and ensuring that each employee and agent will successfully complete a Security Threat Assessment under § 1548.15 before authorizing the individual to have unescorted access to cargo.

(2) *Approval.* TSA will approve the security program by providing the indirect air carrier with the Indirect Air Carrier Standard Security Program and any Security Directive upon determining that—

(i) The indirect air carrier has met the requirements of this part, its security program, and any applicable Security Directive;

(ii) The approval of its security program is not contrary to the interests of security and the public interest; and

(iii) The indirect air carrier has not held a security program that was withdrawn within the previous year, unless otherwise authorized by TSA.

(3) *Commencement of operations.* The indirect air carrier may operate under a security program when it meets all requirements, including but not limited to successful completion of training and Security Threat Assessments by relevant personnel.

(4) *Duration of security program.* The security program will remain effective until the end of the calendar month one year after the month it was approved.

(5) *Requirement to report changes in information.* Each indirect air carrier with an approved security program under this part must notify TSA, in a form and manner approved by TSA, of any changes to the information submitted during its initial application.

(i) This notification must be submitted to the designated official not later than 30 days after the date the change occurred.

(ii) Changes included in the requirement of this paragraph include, but are not limited to, changes in the indirect air carrier's contact information, owners, business addresses and locations, and form of business entity.

(b) *Renewal Application.* Upon timely submittal of an application for renewal, and unless and until TSA denies the application, the indirect air carrier's approved security program remains in effect.

(1) Unless otherwise authorized by TSA, each indirect air carrier that has a security program under this part must timely submit to TSA, at least 30 calendar days prior to the first day of the anniversary month of initial approval of its security program, an ap-

plication for renewal of its security program in a form and a manner approved by TSA.

(2) The application for renewal must be in writing and include a signed statement that the indirect air carrier has reviewed and ensures the continuing accuracy of the contents of its initial application for a security program, subsequent renewal applications, or other submissions to TSA confirming a change of information and noting the date such applications and submissions were sent to TSA, including the following certification:

[Name of indirect air carrier] (hereinafter "the IAC") has adopted and is currently carrying out a security program in accordance with the Transportation Security Regulations as originally approved on [Insert date of TSA initial approval]. In accordance with TSA regulations, the IAC has notified TSA of any new or changed information required for the IAC's initial security program. If new or changed information is being submitted to TSA as part of this application for re-approval, that information is stated in this filing.

The IAC understands that intentional falsification of certification to an air carrier or to TSA may be subject to both civil and criminal penalties under 49 CFR 1540 and 1548 and 18 U.S.C. 1001. Failure to notify TSA of any new or changed information required for initial approval of the IAC's security program in a timely fashion and in a form acceptable to TSA may result in withdrawal by TSA of approval of the IAC's security program.

(3) TSA will renew approval of the security program if TSA determines that—

(i) The indirect air carrier has met the requirements of this chapter, its security program, and any Security Directive; and

(ii) The renewal of its security program is not contrary to the interests of security and the public interest.

(4) If TSA determines that the indirect air carrier meets the requirements of paragraph (b)(3) of this section, it will renew the indirect air carrier's security program. The security program will remain effective until the end of the calendar month one year after the month it was renewed.

(c) *Amendment requested by an indirect air carrier or applicant.* An indirect air carrier or applicant may file a request

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for an amendment to its security program with the TSA designated official at least 45 calendar days before the date it proposes for the amendment to become effective, unless the designated official allows a shorter period. Any indirect air carrier may submit a group proposal for an amendment that is on behalf of it and other indirect air carriers that co-sign the proposal.

(1) Within 30 calendar days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(2) An amendment to an indirect air carrier security program may be approved, if the designated official determines that safety and the public interest will allow it, and if the proposed amendment provides the level of security required under this part.

(3) Within 30 calendar days after receiving a denial of the proposed amendment, the indirect air carrier may petition TSA to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(4) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the TSA for reconsideration. TSA will dispose of the petition within 30 calendar days of receipt by either directing the designated official to approve the amendment or by affirming the denial.

(d) *Amendment by TSA.* TSA may amend a security program in the interest of safety and the public interest, as follows:

(1) TSA notifies the indirect air carrier, in writing, of the proposed amendment, fixing a period of not less than 30 calendar days within which the indirect air carrier may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the indirect air carrier of any amendment adopted or rescinds the notice of amendment. If the amendment is adopted, it becomes effective not less than 30 calendar days after the indirect air carrier receives the notice of amendment, unless the indirect air carrier disagrees with the proposed

amendment and petitions the TSA to reconsider, no later than 15 calendar days before the effective date of the amendment. The indirect air carrier must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice of amendment, or transmits the petition, together with any pertinent information, to TSA for reconsideration. TSA disposes of the petition within 30 calendar days of receipt, either by directing the designated official to withdraw or amend the notice of amendment, or by affirming the notice of amendment.

(e) *Emergency Amendments.* (1) If TSA finds that there is an emergency requiring immediate action, with respect to aviation security that makes procedures in this section contrary to the public interest, the designated official may issue an emergency amendment, without the prior notice and comment procedures described in paragraph (d) of this section.

(2) The emergency amendment is effective without stay on the date the indirect air carrier receives notification. TSA will incorporate in the notification a brief statement of the reasons and findings for the emergency amendment to be adopted.

(3) The indirect air carrier may file a petition for reconsideration with the TSA no later than 15 calendar days after TSA issued the emergency amendment. The indirect air carrier must send the petition for reconsideration to the designated official; however, the filing does not stay the effective date of the emergency amendment.

(f) *Withdrawal of approval of a security program.* Section 1540.301 includes procedures for withdrawal of approval of a security program.

(g) *Service of documents for withdrawal of approval of security program proceedings.* Service may be accomplished by personal delivery, certified mail, or express courier. Documents served on an indirect air carrier will be served at the indirect air carrier's official place

of business as designated in its application for approval or its security program. Documents served on TSA must be served to the address noted in the notice of withdrawal of approval or withdrawal of approval, whichever is applicable.

(1) *Certificate of service.* An individual may attach a certificate of service to a document tendered for filing. A certificate of service must consist of a statement, dated and signed by the person filing the document, that the document was personally delivered, served by certified mail on a specific date, or served by express courier on a specific date.

(2) *Date of service.* The date of service will be—

(i) The date of personal delivery;

(ii) If served by certified mail, the mailing date shown on the certificate of service, the date shown on the postmark, if there is no certificate of service, or other mailing date shown by other evidence if there is no certificate of service or postmark; or

(iii) If served by express courier, the service date shown on the certificate of service, or by other evidence if there is no certificate of service.

(h) *Extension of time.* TSA may grant an extension of time of the limits set forth in this section for good cause shown. An indirect air carrier's request for an extension of time must be in writing and be received by TSA at least 2 days before the due date to be extended. TSA may grant itself an extension of time for good cause.

[71 FR 30513, May 26, 2006, as amended at 74 FR 47705, Sept. 16, 2009]

§ 1548.9 Acceptance of cargo.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each indirect air carrier must use the facilities, equipment, and procedures described in its security program to prevent or deter the carriage onboard an aircraft of any unauthorized person, and any unauthorized explosive, incendiary, and other destructive substance or item, as provided in the indirect air carrier's security program.

(b) *Refusal to transport.* Each indirect air carrier must refuse to offer for transport on an aircraft any cargo, if the shipper does not consent to a search or inspection of that cargo in

accordance with this part, or parts 1544 or 1546 of this chapter.

[71 FR 30515, May 26, 2006]

§ 1548.11 Training and knowledge for individuals with security-related duties.

(a) No indirect air carrier may use an employee or agent to perform any security-related duties to meet the requirements of its security program, unless that individual has received training, as specified in its security program, including his or her personal responsibilities in § 1540.105 of this chapter.

(b) Each indirect air carrier must ensure that each of its authorized employees or agents who accept, handle, transport, or deliver cargo have knowledge of the—

(1) Applicable provisions of this part;

(2) Applicable Security Directives and Information Circulars;

(3) The approved airport security program(s) applicable to their location(s); and

(4) The aircraft operator's or indirect air carrier's security program, to the extent necessary in order to perform their duties.

(c) Each indirect air carrier must ensure that each of its authorized employees or agents under paragraph (b) of this section successfully completes recurrent training at least annually on their individual responsibilities in—

(1) Section 1540.105 of this chapter;

(2) The applicable provisions of this part;

(3) Applicable Security Directives and Information Circulars;

(4) The approved airport security program(s) applicable to their location(s); and

(5) The aircraft operator's or indirect air carrier's security program, to the extent that such individuals need to know in order to perform their duties.

(d) Operators must comply with the requirements of this section not later than November 22, 2006, for direct employees and not later than June 15, 2007, for agents.

[71 FR 30515, May 26, 2006, as amended at 71 FR 62549, Oct. 25, 2006]

§ 1548.13 Security coordinators.

Each indirect air carrier must designate and use an Indirect Air Carrier

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Security Coordinator (IACSC). The IACSC and alternates must be appointed at the corporate level and must serve as the indirect air carrier's primary contact for security-related activities and communications with TSA, as set forth in the security program. Either the IACSC or an alternate IACSC must be available on a 24-hour basis.

[71 FR 30515, May 26, 2006]

§ 1548.15 Access to cargo: Security threat assessments for individuals having unescorted access to cargo.

(a) Before an indirect air carrier authorizes and before an individual performs a function described in paragraph (b) of this section—

(1) Each individual must successfully complete a security threat assessment or comparable security threat assessment described in part 1540 subpart C of this chapter; and

(2) Each indirect air carrier must complete the requirements in part 1540 subpart C.

(b) The security threat assessment required in paragraph (a) of this section applies to the following:

(1) Each individual who has unescorted access to cargo and access to information that such cargo will be transported on a passenger aircraft; or who has unescorted access to cargo screened for transport on a passenger aircraft; or who performs certain functions related to the transportation, dispatch or security of cargo for transport on a passenger aircraft or all-cargo aircraft, as specified in the indirect air carrier's security program; from the time—

(i) Cargo to be transported on an all-cargo aircraft operated by an aircraft operator with a full all-cargo program under § 1544.101(h) of this chapter, or by a foreign air carrier under § 1546.101(e) of this chapter, reaches an indirect air carrier facility where the indirect air carrier consolidates or holds the cargo, until the indirect air carrier transfers the cargo to an aircraft operator or foreign air carrier; or

(ii) Cargo to be transported on a passenger aircraft operated by an aircraft operator with a full program under § 1544.101(a) or by a foreign air carrier under § 1546.101(a) or (b) of this chapter,

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is accepted by the indirect air carrier, until the indirect air carrier transfers the cargo to an aircraft operator or foreign air carrier.

(2) Each individual the indirect air carrier authorizes to screen cargo or to supervise the screening of cargo under § 1548.21.

[74 FR 47705, Sept. 16, 2009, as amended at 76 FR 51868, Aug. 18, 2011]

§ 1548.16 Security threat assessments for each proprietor, general partner, officer, director, and certain owners of the entity.

(a) Before an indirect air carrier permits a proprietor, general partner, officer, director, or owner of the entity to perform those functions—

(1) The proprietor, general partner, officer, director, or owner of the entity must successfully complete a security threat assessment or comparable security threat assessment described in part 1540 subpart C of this chapter; and

(2) Each indirect air carrier must complete the requirements in 49 CFR part 1540, subpart C.

(b) For purposes of this section, *owner* means—

(1) A person who directly or indirectly owns, controls, or has power to vote 25 percent or more of any class of voting securities or other voting interests of an IAC or applicant to be an IAC; or

(2) A person who directly or indirectly controls in any manner the election of a majority of the directors (or individuals exercising similar functions) of an IAC, or applicant to be an IAC.

(c) For purposes of this definition of *owner*—

(1) Members of the same family must be considered to be one person.

(i) *Same family* means parents, spouses, children, siblings, uncles, aunts, grandparents, grandchildren, first cousins, stepchildren, stepsiblings, and parents-in-law, and spouses of any of the foregoing.

(ii) Each member of the same family, who has an ownership interest in an IAC, or an applicant to be an IAC, must be identified if the family is an owner as a result of aggregating the ownership interests of the members of the family.

(iii) In determining the ownership of interests of the same family, any voting interest of any family member must be taken into account.

(2) *Voting securities or other voting interests* means securities or other interests that entitle the holder to vote for or select directors (or individuals exercising similar functions).

(d) Each indirect air carrier, or applicant to be an indirect air carrier, must ensure that each proprietor, general partner, officer, director and owner of the entity has successfully completed a Security Threat Assessment under part 1540, subpart C, of this chapter not later than a date to be specified by TSA in a future rule in the FEDERAL REGISTER.

[71 FR 30516, May 26, 2006; 71 FR 31965, June 2, 2006, as amended at 71 FR 62550, Oct. 25, 2006; 72 FR 13026, Mar. 20, 2007; 74 FR 47706, Sept. 16, 2009]

§ 1548.17 Known shipper program.

This section applies to cargo that an indirect air carrier offers to an aircraft operator operating under a full program under § 1544.101(a) of this chapter, or to a foreign air carrier operating under § 1546.101(a) or (b) of this chapter.

(a) For cargo to be loaded on aircraft in the United States, each indirect air carrier must have and carry out a known shipper program in accordance with its security program. The program must—

(1) Determine the shipper's validity and integrity as provided in its security program;

(2) Provide that the indirect air carrier will separate known shipper cargo from unknown shipper cargo.

(b) When required by TSA, each indirect air carrier must submit to TSA, in a form and manner acceptable to TSA—

(1) Information identified in its security program regarding an applicant to be a known shipper or a known shipper; and

(2) Corrections and updates of this information upon learning of a change to the information specified in paragraph (b)(1) of this section.

[71 FR 30516, May 26, 2006]

§ 1548.19 Security Directives and Information Circulars.

(a) TSA may issue an Information Circular to notify indirect air carriers of security concerns.

(b) When TSA determines that additional security measures are necessary to respond to a threat assessment, or to a specific threat against civil aviation, TSA issues a Security Directive setting forth mandatory measures.

(1) Each indirect air carrier that is required to have an approved indirect air carrier security program must comply with each Security Directive that TSA issues to it, within the time prescribed in the Security Directive for compliance.

(2) Each indirect air carrier that receives a Security Directive must comply with the following:

(i) Within the time prescribed in the Security Directive, acknowledge in writing receipt of the Security Directive to TSA.

(ii) Within the time prescribed in the Security Directive, specify the method by which the measures in the Security Directive have been implemented (or will be implemented, if the Security Directive is not yet effective).

(3) In the event that the indirect air carrier is unable to implement the measures in the Security Directive, the indirect air carrier must submit proposed alternative measures and the basis for submitting the alternative measures to TSA for approval.

(i) The indirect air carrier must submit the proposed alternative measures within the time prescribed in the Security Directive.

(ii) The indirect air carrier must implement any alternative measures approved by TSA.

(4) Each indirect air carrier that receives a Security Directive may comment on it by submitting data, views, or arguments in writing to TSA.

(i) TSA may amend the Security Directive based on comments received.

(ii) Submission of a comment does not delay the effective date of the Security Directive.

(5) Each indirect air carrier that receives a Security Directive or Information Circular, and each person who receives information from a Security Directive or Information Circular, must:

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(i) Restrict the availability of the Security Directive or Information Circular, and information contained in either document, to those persons with a need-to-know.

(ii) Refuse to release the Security Directive or Information Circular, and information contained in either document, to persons other than those with a need-to-know without the prior written consent of TSA.

[71 FR 30516, May 26, 2006]

§ 1548.21 Screening of cargo.

An IAC may only screen cargo for transport on a passenger aircraft under §§ 1544.205 and 1546.205 if the IAC is a certified cargo screening facility as provided in part 1549.

[74 FR 47706, Sept. 16, 2009]

PART 1549—CERTIFIED CARGO SCREENING PROGRAM

Subpart A—General

Sec.

1549.1 Applicability.

1549.3 TSA inspection authority.

1549.5 Adoption and implementation of the security program.

1549.7 Approval, amendment, renewal of the security program and certification of a certified cargo screening facility.

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1549.111 Security threat assessments for personnel of certified cargo screening facilities.

AUTHORITY: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44913–44914, 44916–44917, 44932, 44935–44936, 46105.

SOURCE: 74 FR 47706, Sept. 16, 2009, unless otherwise noted.

Subpart A—General

§ 1549.1 Applicability.

This part applies to each facility applying for or certified by TSA as a certified cargo screening facility to screen

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cargo that will be transported on a passenger aircraft operated under a full program under 49 CFR 1544.101(a), or a foreign air carrier operating under a program under 49 CFR 1546.101(a) or (b).

§ 1549.3 TSA inspection authority.

(a) Each certified cargo screening facility must allow TSA, at any time or place, in a reasonable manner, without advance notice, to enter the facility and make any inspections or tests, including copying records, to—

(1) Determine compliance of a certified cargo screening facility, airport operator, foreign air carrier, indirect air carrier, or airport tenant with this chapter and 49 U.S.C. 114 and Subtitle VII, as amended; or

(2) Carry out TSA's statutory or regulatory authorities, including its authority to—

(i) Assess threats to transportation;

(ii) Enforce security-related regulations, directives, and requirements;

(iii) Inspect, maintain, and test the security of facilities, equipment, and systems;

(iv) Ensure the adequacy of security measures for the transportation of passengers and cargo;

(v) Oversee the implementation, and ensure the adequacy, of security measures at airports and other transportation facilities;

(vi) Review security plans; and

(vii) Carry out such other duties, and exercise such other powers, relating to transportation security as the Assistant Secretary of Homeland Security for the TSA considers appropriate, to the extent authorized by law.

(b) At the request of TSA, each certified cargo screening facility must provide evidence of compliance with this chapter, including copying records.

(c) TSA and DHS officials working with TSA may conduct inspections under this section without access media or identification media issued or approved by a certified cargo screening facility or other person, except that the TSA and DHS officials will have identification media issued by TSA or DHS.

§ 1549.5 Adoption and implementation of the security program.

(a) *Security program required.* No person may screen cargo to be tendered to an aircraft operator operating under a full program under part 1544, a foreign air carrier operating under §1546.101(a) or (b), or an indirect air carrier operating under §1548.5 for carriage on a passenger aircraft, unless that person holds and carries out an approved security program under this part.

(b) *Content.* Each security program under this part must—

(1) Provide for the security of the aircraft, as well as that of persons and property traveling in air transportation against acts of criminal violence and air piracy and against the introduction into the aircraft of any unauthorized explosive, incendiary, and other destructive substance or item as provided in the certified cargo screening facility's security program;

(2) Be designed to prevent or deter the introduction of any unauthorized explosive, incendiary, and other destructive substance or item onto an aircraft; and

(3) Include the procedures and description of the facilities and equipment used to comply with the requirements of this part.

(c) *Employees and agents.* The certified cargo screening facility must ensure that its employees and agents carry out the requirements of this chapter and the certified cargo screening facility's security program.

(d) *Facility's security program.* The certified cargo screening facility standard security program together with approved alternate procedures and amendments issued to a particular facility constitutes that facility's security program.

(e) *Availability.* Each certified cargo screening facility must:

(1) Maintain an original of the security program at its corporate office.

(2) Have accessible a complete copy, or the pertinent portions of its security program, or appropriate implementing instructions, at its facility. An electronic version is adequate.

(3) Make a copy of the security program available for inspection upon the request of TSA.

(4) Restrict the distribution, disclosure, and availability of information contained in its security program to persons with a need to know, as described in part 1520 of this chapter.

(5) Refer requests for such information by other persons to TSA.

§ 1549.7 Approval, amendment, renewal of the security program and certification of a certified cargo screening facility.

(a) *Initial application and approval.*—

(1) *Application.* Unless otherwise authorized by TSA, each applicant must apply for a security program and for certification as a certified cargo screening facility at a particular location, in a form and a manner prescribed by TSA not less than 90 calendar days before the applicant intends to begin operations. TSA will only approve a facility to operate as a CCSF if it is located in the United States. The CCSF application must be in writing and include the following:

(i) The business name; other names, including doing business as; state of incorporation, if applicable; and tax identification number.

(ii) The name of the senior manager or representative of the applicant in control of the operations at the facility.

(iii) A signed statement from each person listed in paragraph (a)(1)(ii) of this section stating whether he or she has been a senior manager or representative of a facility that had its security program withdrawn by TSA.

(iv) Copies of government-issued identification of persons listed in paragraph (a)(1)(ii) of this section.

(v) The street address of the facility where screening will be conducted.

(vi) A statement acknowledging and ensuring that each individual and agent of the applicant, who is subject to training under §1549.11, will have successfully completed the training outlined in its security program before performing security-related duties.

(vii) Other information requested by TSA concerning Security Threat Assessments.

(viii) A statement acknowledging and ensuring that each individual will successfully complete a Security Threat Assessment under §1549.111 before the

applicant authorizes the individual to have unescorted access to screened cargo or to screen or supervise the screening of cargo.

(2) *Standard security program and assessment.* (i) After the Security Coordinator for an applicant successfully completes a security threat assessment, TSA will provide to the applicant the certified cargo screening standard security program, any security directives, and amendments to the security program and other alternative procedures that apply to the facility. The applicant may either accept the standard security program or submit a proposed modified security program to the designated official for approval. TSA will approve the security program under paragraphs (a)(3) and (a)(4) of the section or issue a written notice to modify under paragraph (a)(4) of this section.

(ii) An applicant must successfully undergo an assessment by TSA.

(3) *Review.* TSA will review a facility at a particular location to determine whether—

(i) The applicant has met the requirements of this part, its security program, and any applicable Security Directive;

(ii) The applicant has successfully undergone an assessment by TSA;

(iii) The applicant is able and willing to carry out the requirements of this part, its security program, and an applicable Security Directive;

(iv) The approval of such applicant's security program is not contrary to the interests of security and the public interest;

(v) The applicant has not held a security program that was withdrawn within the previous year, unless otherwise authorized by TSA; and

(vi) TSA determines that the applicant is qualified to be a certified cargo screening facility.

(4) *Approval and certification.* If TSA determines that the requirements of paragraph (a)(4) of this section are met and the application is approved, TSA will send the applicant a written notice of approval of its security program, and certification to operate as a certified cargo screening facility.

(5) *Commencement of operations.* The certified cargo screening facility may

operate under a security program when it meets all TSA requirements, including but not limited to an assessment by TSA, successful completion of training, and Security Threat Assessments by relevant personnel.

(6) *Duration of security program.* The security program will remain effective until the end of the calendar month three years after the month it was approved or until the program has been surrendered or withdrawn, whichever is earlier.

(7) *Requirement to report changes in information.* Each certified cargo screening facility under this part must notify TSA, in a form and manner approved by TSA, of any changes to the information submitted during its initial application.

(i) The CCSF must submit this notification to TSA not later than 30 days prior to the date the change is expected to occur.

(ii) Changes included in the requirement of this paragraph include, but are not limited to, changes in the certified cargo screening facility's contact information, senior manager or representative, business addresses and locations, and form of business facility.

(iii) If the certified cargo screening facility relocates, TSA will withdraw the existing certification and require the new facility to undergo a validation and certification process.

(b) *Renewal Application.* Upon timely submittal of an application for renewal, and unless and until TSA denies the application, the certified cargo screening facility's approved security program remains in effect.

(1) Unless otherwise authorized by TSA, each certified cargo screening facility must timely submit to TSA, at least 30 calendar days prior to the first day of the 36th anniversary month of initial approval of its security program, an application for renewal of its security program in a form and a manner approved by TSA.

(2) The certified cargo screening facility must demonstrate that it has successfully undergone a revalidation of its operations by TSA prior to the first day of the 36th anniversary month of initial approval of its security program.

(3) The application for renewal must be in writing and include a signed statement that the certified cargo screening facility has reviewed and ensures the continuing accuracy of the contents of its initial application for a security program, subsequent renewal applications, or other submissions to TSA confirming a change of information and noting the date such applications and submissions were sent to TSA, including the following certification:

[Name of certified cargo screening facility] (hereinafter "the CCSF") has adopted and is currently carrying out a security program in accordance with the Transportation Security Regulations as originally approved on [Insert date of TSA initial approval]. In accordance with TSA regulations, the CCSF has notified TSA of any new or changed information required for the CCSF's initial security program. If new or changed information is being submitted to TSA as part of this application for reapproval, that information is stated in this filing.

The CCSF understands that intentional falsification of certification to an aircraft operator, foreign air carrier, indirect air carrier, or to TSA may be subject to both civil and criminal penalties under 49 CFR part 1540 and 18 U.S.C. 1001. Failure to notify TSA of any new or changed information required for initial approval of the CCSF's security program in a timely fashion and in a form acceptable to TSA may result in withdrawal by TSA of approval of the CCSF's security program.

(4) TSA will renew approval of the security program if TSA determines that—

- (i) The CCSF has met the requirements of this chapter, its security program, and any Security Directive; and
- (ii) The renewal of its security program is not contrary to the interests of security and the public interest.

(5) If TSA determines that the certified cargo screening facility meets the requirements of paragraph (b)(3) of this section, it will renew the certified cargo screening facility's security program and certification. The security program and certification will remain effective until the end of the calendar month three years after the month it was renewed.

(c) *Amendment requested by a certified cargo screening entity or applicant.* A certified cargo screening facility or applicant may file a request for an

amendment to its security program with the TSA designated official at least 45 calendar days before the date it proposes for the amendment to become effective, unless the designated official allows a shorter period. Any certified cargo screening facility may submit to TSA a group proposal for an amendment that is on behalf of it and other certified cargo screening facilities that co-sign the proposal.

(1) Within 30 calendar days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(2) TSA may approve an amendment to a certified cargo screening facility's security program, if the TSA designated official determines that safety and the public interest will allow it, and if the proposed amendment provides the level of security required under this part.

(3) Within 30 calendar days after receiving a denial of the proposed amendment, the certified cargo screening facility may petition TSA to reconsider the denial. The CCSF must file the Petition for Reconsideration with the designated official.

(4) Upon receipt of a Petition for Reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to TSA for reconsideration. TSA will dispose of the petition within 30 calendar days of receipt by either directing the designated official to approve the amendment or by affirming the denial.

(d) *Amendment by TSA.* TSA may amend a security program in the interest of safety and the public interest, as follows:

(1) TSA notifies the certified cargo screening facility, in writing, of the proposed amendment, fixing a period of not less than 30 calendar days within which the certified cargo screening facility may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the certified cargo screening facility of any amendment adopted or rescinds the notice of amendment. If the

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amendment is adopted, it becomes effective not less than 30 calendar days after the certified cargo screening facility receives the notice of amendment, unless the certified cargo screening facility disagrees with the proposed amendment and petitions the TSA to reconsider, no later than 15 calendar days before the effective date of the amendment. The certified cargo screening facility must send the petition for reconsideration to the designated official. A timely Petition for Reconsideration stays the effective date of the amendment.

(3) Upon receipt of a Petition for Reconsideration, the designated official either amends or withdraws the notice of amendment, or transmits the Petition, together with any pertinent information, to TSA for reconsideration. TSA disposes of the Petition within 30 calendar days of receipt, either by directing the designated official to withdraw or amend the notice of amendment, or by affirming the notice of amendment.

(e) *Emergency amendments.* (1) If TSA finds that there is an emergency requiring immediate action, with respect to aviation security that makes procedures in this section contrary to the public interest, the designated official may issue an emergency amendment, without the prior notice and comment procedures described in paragraph (d) of this section.

(2) The emergency amendment is effective without stay on the date the certified cargo screening facility receives notification. TSA will incorporate in the notification a brief statement of the reasons and findings for the emergency amendment to be adopted.

(3) The certified cargo screening facility may file a Petition for Reconsideration with the TSA no later than 15 calendar days after TSA issued the emergency amendment. The certified cargo screening facility must send the Petition for Reconsideration to the designated official; however, the filing does not stay the effective date of the emergency amendment.

[74 FR 47706, Sept. 16, 2009, as amended at 76 FR 51868, Aug. 18, 2011]

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Subpart B—Operations

§ 1549.101 Acceptance, screening, and transfer of cargo.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each certified cargo screening facility must use the facilities, equipment, and procedures described in its security program to prevent or deter the carriage onboard an aircraft of any unauthorized explosives, incendiaries, and other destructive substances or items in cargo onboard an aircraft, as provided in the facility's security program.

(b) *Screening and inspection of cargo.* Each certified cargo screening facility must ensure that cargo is screened and inspected for any unauthorized explosive, incendiary, and other destructive substance or item as provided in the facility's security program before it is tendered to another certified cargo screening facility, an aircraft operator with a full program under part 1544, a foreign air carrier operating under §§1546.101(a) or (b), or an indirect air carrier operating under §1548.5 for transport on a passenger aircraft. Cargo that the facility represents as screened, must be screened in accordance with this part.

(c) *Refusal to transport.* Each certified cargo screening facility must refuse to offer to another certified cargo screening facility, an aircraft operator with a full program under part 1544, a foreign air carrier operating under §§1546.101(a) or (b), or an indirect air carrier operating under §1548.5 for transport on a passenger aircraft any cargo, if the shipper does not consent to a search or inspection of that cargo in accordance with this part, or parts 1544, 1546, or 1548 of this chapter.

(d) *Chain of custody.* Each certified cargo screening facility must protect the cargo from unauthorized access from the time it is screened until the time it is tendered to another certified cargo screening facility as approved by TSA, an indirect air carrier under 49 CFR part 1548, an aircraft operator under part 1544, or a foreign air carrier under part 1546.

§ 1549.103 Qualifications and training of individuals with security-related duties.

(a) *Security threat assessments.* Each certified cargo screening facility must ensure that individuals listed in 49 CFR 1540.201(a)(6), (7), (8), (9), and (12) relating to a certified cargo screening facility complete a security threat assessment or comparable security threat assessment described in part 1540, subpart C of this chapter, before conducting screening or supervising screening or before having unescorted access to screened cargo, unless the individual is authorized to serve as law enforcement personnel at that location.

(b) *Training required.* Each certified cargo screening facility must ensure that individuals have received training, as specified in this section and its security program, before such individual perform any duties to meet the requirements of its security program.

(c) *Knowledge and training requirements.* Each certified cargo screening facility must ensure that each individual who performs duties to meet the requirements of its security program have knowledge of, and annual training in, the—

(1) Applicable provisions of this chapter, including this part, part 1520, and § 1540.105;

(2) The certified cargo screening facility's security program, to the extent that such individuals need to know in order to perform their duties;

(3) Applicable Security Directives and Information Circulars; and

(4) The applicable portions of approved airport security program(s) and aircraft operator security program(s).

(d) *Screener qualifications.* Each certified cargo screening facility must ensure that each individual who screens cargo or who supervises cargo screening—

(1) Is a citizen or national of the United States, or an alien lawfully admitted for permanent residence;

(2) Has a high school diploma, a General Equivalency Diploma, or a combination of education and experience that the certified cargo screening facility has determined to have equipped the person to perform the duties of the position;

(3) Has basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the extent required to effectively operate cargo screening technologies that the facility is authorized to use. These include:

(i) The ability to operate x-ray equipment and to distinguish on the x-ray monitor the appropriate imaging standard specified in the certified cargo screening facility security program. Wherever the x-ray system displays colors, the operator must be able to perceive each color.

(ii) The ability to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

(iii) The ability to hear and respond to the spoken voice and to audible alarms generated by screening equipment.

(4) Has the ability to read, write and understand English well enough to carry out written and oral instructions regarding the proper performance of screening duties or be under the direct supervision of someone who has this ability, including reading labels and shipping papers, and writing log entries into security records in English.

§ 1549.105 Recordkeeping.

(a) Each certified cargo screening facility must maintain records demonstrating compliance with all statutes, regulations, directives, orders, and security programs that apply to operation as a certified cargo screening facility, including the records listed below, at the facility location or other location as approved by TSA:

(1) Records of all training and instructions given to each individual under § 1549.103. The CCSF must retain these records for 180 days after the individual is no longer employed by the certified cargo screening facility or is no longer acting as the facility's agent.

(2) Copies of all documents related to applications for, or renewals of, TSA certification to operate under part 1549.

(3) Documents establishing TSA's certification and renewal of certification as required by part 1549.

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(4) Records demonstrating that each individual has complied with the security threat assessment provisions of §1549.111.

(b) Unless otherwise stated, records must be retained until the next re-certification.

[74 FR 47706, Sept. 16, 2009, as amended at 76 FR 51868, Aug. 18, 2011]

§ 1549.107 Security coordinators.

Each certified cargo screening facility must have a Security Coordinator and designated alternate Security Coordinator appointed at the corporate level. In addition, each certified cargo screening facility must have a facility Security Coordinator and alternate facility Security Coordinator appointed at the facility level. The facility Security Coordinator must serve as the certified cargo screening facility's primary contact for security-related activities and communications with TSA, as set forth in the security program. The Security Coordinator and alternate appointed at the corporate level, as well as the facility Security Coordinator and alternate, must be available on a 24-hour, 7-days a week basis.

§ 1549.109 Security Directives and Information Circulars.

(a) TSA may issue an Information Circular to notify certified cargo screening facilities of security concerns.

(b) When TSA determines that additional security measures are necessary to respond to a threat assessment, or to a specific threat against civil aviation, TSA issues a Security Directive setting forth mandatory measures.

(1) Each certified cargo screening facility must comply with each Security Directive that TSA issues to it, within the time prescribed in the Security Directive for compliance.

(2) Each certified cargo screening facility that receives a Security Directive must comply with the following:

(i) Within the time prescribed in the Security Directive, acknowledge in writing receipt of the Security Directive to TSA.

(ii) Within the time prescribed in the Security Directive, specify the method by which the measures in the Security Directive have been implemented (or

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will be implemented, if the Security Directive is not yet effective).

(3) In the event that the certified cargo screening facility is unable to implement the measures in the Security Directive, the certified cargo screening facility must submit proposed alternative measures and the basis for submitting the alternative measures to TSA for approval.

(i) The certified cargo screening facility must submit the proposed alternative measures within the time prescribed in the Security Directive.

(ii) The certified cargo screening facility must implement any alternative measures approved by TSA.

(4) Each certified cargo screening facility that receives a Security Directive may comment on it by submitting data, views, or arguments in writing to TSA.

(i) TSA may amend the Security Directive based on comments received.

(ii) Submission of a comment does not delay the effective date of the Security Directive.

(5) Each certified cargo screening facility that receives a Security Directive or Information Circular, and each person who receives information from a Security Directive or Information Circular, must—

(i) Restrict the availability of the Security Directive or Information Circular, and information contained in either document, to those persons with a need-to-know; and

(ii) Refuse to release the Security Directive or Information Circular, and information contained in either document, to persons other than those with a need-to-know without the prior written consent of TSA.

§ 1549.111 Security threat assessments for personnel of certified cargo screening facilities.

(a) *Scope.* This section applies to the following:

(1) Each individual the certified cargo screening facility authorizes to perform cargo screening or supervise cargo screening.

(2) Each individual the certified cargo screening facility authorizes to have unescorted access to cargo at any time from the time it is screened until

the time it is tendered to another certified cargo screening facility, an indirect air carrier under 49 CFR part 1548 for transport on a passenger aircraft, an aircraft operator under part 1544, or a foreign air carrier under part 1546.

(3) The senior manager or representative of its facility in control of the operations.

(4) The security coordinators and their alternates.

(b) *Security threat assessment.* Before a certified cargo screening facility authorizes an individual to perform the functions described in paragraph (a) of this section, and before the individual performs those functions—

(1) Each individual must successfully complete a security threat assessment or comparable security threat assessment described in part 1540, subpart C of this chapter; and

(2) Each certified screening facility must complete the requirements in 49 CFR part 1540, subpart C.

PART 1550—AIRCRAFT SECURITY UNDER GENERAL OPERATING AND FLIGHT RULES

Sec.

1550.1 Applicability of this part.

1550.3 TSA inspection authority.

1550.5 Operations using a sterile area.

1550.7 Operations in aircraft of 12,500 pounds or more.

AUTHORITY: 49 U.S.C. 114, 5103, 40113, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

SOURCE: 67 FR 8383, Feb. 22, 2002, unless otherwise noted.

§ 1550.1 Applicability of this part.

This part applies to the operation of aircraft for which there are no security requirements in other parts of this subchapter.

§ 1550.3 TSA inspection authority.

(a) Each aircraft operator subject to this part must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance with—

(1) This subchapter and any security program or security procedures under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each aircraft operator must provide evidence of compliance with this part and its security program or security procedures, including copies of records.

§ 1550.5 Operations using a sterile area.

(a) *Applicability of this section.* This section applies to all aircraft operations in which passengers, crewmembers, or other individuals are enplaned from or deplaned into a sterile area, except for scheduled passenger operations, public charter passenger operations, and private charter passenger operations, that are in accordance with a security program issued under part 1544 or 1546 of this chapter.

(b) *Procedures.* Any person conducting an operation identified in paragraph (a) of this section must conduct a search of the aircraft before departure and must screen passengers, crewmembers, and other individuals and their accessible property (carry-on items) before boarding in accordance with security procedures approved by TSA.

(c) *Sensitive security information.* The security program procedures approved by TSA for operations specified in paragraph (a) of this section are sensitive security information. The operator must restrict the distribution, disclosure, and availability of information contained in the security procedures to persons with a need to know as described in part 1520 of this chapter.

(d) *Compliance date.* Persons conducting operations identified in paragraph (a) of this section must implement security procedures on October 6, 2001.

(e) *Waivers.* TSA may permit a person conducting an operation under this section to deviate from the provisions of this section if TSA finds that the operation can be conducted safely under the terms of the waiver.

§ 1550.7 Operations in aircraft of 12,500 pounds or more.

(a) *Applicability of this section.* This section applies to each aircraft operation conducted in an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more except for

those operations specified in §1550.5 and those operations conducted under a security program under part 1544 or 1546 of this chapter.

(b) *Procedures.* Any person conducting an operation identified in paragraph (a) of this section must conduct a search of the aircraft before departure and screen passengers, crewmembers, and other persons and their accessible property (carry-on items) before boarding in accordance with security procedures approved by TSA.

(c) *Compliance date.* Persons identified in paragraph (a) of this section must implement security procedures when notified by TSA. TSA will notify operators by NOTAM, letter, or other communication when they must implement security procedures.

(d) *Waivers.* TSA may permit a person conducting an operation identified in this section to deviate from the provisions of this section if TSA finds that the operation can be conducted safely under the terms of the waiver.

PART 1552—FLIGHT SCHOOLS

Subpart A—Flight Training for Aliens and Other Designated Individuals

Sec.

1552.1 Scope and definitions.

1552.3 Flight training.

1552.5 Fees.

Subpart B—Flight School Security Awareness Training

1552.21 Scope and definitions.

1552.23 Security awareness training programs.

1552.25 Documentation, recordkeeping, and inspection.

AUTHORITY: 49 U.S.C. 114, 44939.

SOURCE: 69 FR 56340, Sept. 20, 2004, unless otherwise noted.

Subpart A—Flight Training for Aliens and Other Designated Individuals

§ 1552.1 Scope and definitions.

(a) *Scope.* This subpart applies to flight schools that provide instruction under 49 U.S.C. Subtitle VII, Part A, in the operation of aircraft or aircraft simulators, and individuals who apply

to obtain such instruction or who receive such instruction.

(b) *Definitions.* As used in this part:

Aircraft simulator means a flight simulator or flight training device, as those terms are defined at 14 CFR 61.1.

Alien means any person not a citizen or national of the United States.

Candidate means an alien or other individual designated by TSA who applies for flight training or recurrent training. It does not include an individual endorsed by the Department of Defense for flight training.

Day means a day from Monday through Friday, including State and local holidays but not Federal holidays, for any time period less than 11 days specified in this part. For any time period greater than 11 days, day means calendar day.

Demonstration flight for marketing purposes means a flight for the purpose of demonstrating an aircraft's or aircraft simulator's capabilities or characteristics to a potential purchaser, or to an agent of a potential purchaser, of the aircraft or simulator, including an acceptance flight after an aircraft manufacturer delivers an aircraft to a purchaser.

Flight school means any pilot school, flight training center, air carrier flight training facility, or flight instructor certificated under 14 CFR part 61, 121, 135, 141, or 142; or any other person or entity that provides instruction under 49 U.S.C. Subtitle VII, Part A, in the operation of any aircraft or aircraft simulator.

Flight training means instruction received from a flight school in an aircraft or aircraft simulator. Flight training does not include recurrent training, ground training, a demonstration flight for marketing purposes, or any military training provided by the Department of Defense, the U.S. Coast Guard, or an entity under contract with the Department of Defense or U.S. Coast Guard.

Ground training means classroom or computer-based instruction in the operation of aircraft, aircraft systems, or cockpit procedures. Ground training does not include instruction in an aircraft simulator.

National of the United States means a person who, though not a citizen of the

United States, owes permanent allegiance to the United States, and includes a citizen of American Samoa or Swains Island.

Recurrent training means periodic training required under 14 CFR part 61, 121, 125, 135, or Subpart K of part 91. Recurrent training does not include training that would enable a candidate who has a certificate or type rating for a particular aircraft to receive a certificate or type rating for another aircraft.

§ 1552.3 Flight training.

This section describes the procedures a flight school must follow before providing flight training.

(a) *Category 1—Regular processing for flight training on aircraft more than 12,500 pounds.* A flight school may not provide flight training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to a candidate, except for a candidate who receives expedited processing under paragraph (b) of this section, unless—

(1) The flight school has first notified TSA that the candidate has requested such flight training.

(2) The candidate has submitted to TSA, in a form and manner acceptable to TSA, the following:

(i) The candidate's full name, including any aliases used by the candidate or variations in the spelling of the candidate's name;

(ii) A unique candidate identification number created by TSA;

(iii) A copy of the candidate's current, unexpired passport and visa;

(iv) The candidate's passport and visa information, including all current and previous passports and visas held by the candidate and all the information necessary to obtain a passport and visa;

(v) The candidate's country of birth, current country or countries of citizenship, and each previous country of citizenship, if any;

(vi) The candidate's actual date of birth or, if the candidate does not know his or her date of birth, the approximate date of birth used consistently by the candidate for his or her passport or visa;

(vii) The candidate's requested dates of training and the location of the training;

(viii) The type of training for which the candidate is applying, including the aircraft type rating the candidate would be eligible to obtain upon completion of the training;

(ix) The candidate's current U.S. pilot certificate, certificate number, and type rating, if any;

(x) Except as provided in paragraph (k) of this section, the candidate's fingerprints, in accordance with paragraph (f) of this section;

(xi) The candidate's current address and phone number and each address for the 5 years prior to the date of the candidate's application;

(xii) The candidate's gender; and

(xiii) Any fee required under this part.

(3) The flight school has submitted to TSA, in a form and manner acceptable to TSA, a photograph of the candidate taken when the candidate arrives at the flight school for flight training.

(4) TSA has informed the flight school that the candidate does not pose a threat to aviation or national security, or more than 30 days have elapsed since TSA received all of the information specified in paragraph (a)(2) of this section.

(5) The flight school begins the candidate's flight training within 180 days of either event specified in paragraph (a)(4) of this section.

(b) *Category 2—Expedited processing for flight training on aircraft more than 12,500 pounds.* (1) A flight school may not provide flight training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to a candidate who meets any of the criteria of paragraph (b)(2) of this section unless—

(i) The flight school has first notified TSA that the candidate has requested such flight training.

(ii) The candidate has submitted to TSA, in a form and manner acceptable to TSA:

(A) The information and fee required under paragraph (a)(2) of this section; and

(B) The reason the candidate is eligible for expedited processing under

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paragraph (b)(2) of this section and information that establishes that the candidate is eligible for expedited processing.

(iii) The flight school has submitted to TSA, in a form and manner acceptable to TSA, a photograph of the candidate taken when the candidate arrives at the flight school for flight training.

(iv) TSA has informed the flight school that the candidate does not pose a threat to aviation or national security or more than 5 days have elapsed since TSA received all of the information specified in paragraph (a)(2) of this section.

(v) The flight school begins the candidate's flight training within 180 days of either event specified in paragraph (b)(1)(iv) of this section.

(2) A candidate is eligible for expedited processing if he or she—

(i) Holds an airman's certificate from a foreign country that is recognized by the Federal Aviation Administration or a military agency of the United States, and that permits the candidate to operate a multi-engine aircraft that has a certificated takeoff weight of more than 12,500 pounds;

(ii) Is employed by a foreign air carrier that operates under 14 CFR part 129 and has a security program approved under 49 CFR part 1546;

(iii) Has unescorted access authority to a secured area of an airport under 49 U.S.C. 44936(a)(1)(A)(ii), 49 CFR 1542.209, or 49 CFR 1544.229;

(iv) Is a flightcrew member who has successfully completed a criminal history records check in accordance with 49 CFR 1544.230; or

(v) Is part of a class of individuals that TSA has determined poses a minimal threat to aviation or national security because of the flight training already possessed by that class of individuals.

(c) *Category 3—Flight training on aircraft 12,500 pounds or less.* A flight school may not provide flight training in the operation of any aircraft having a maximum certificated takeoff weight of 12,500 pounds or less to a candidate unless—

(1) The flight school has first notified TSA that the candidate has requested such flight training.

(2) The candidate has submitted to TSA, in a form and manner acceptable to TSA:

(i) The information required under paragraph (a)(2) of this section; and

(ii) Any other information required by TSA.

(3) The flight school has submitted to TSA, in a form and manner acceptable to TSA, a photograph of the candidate taken when the candidate arrives at the flight school for flight training.

(4) The flight school begins the candidate's flight training within 180 days of the date the candidate submitted the information required under paragraph (a)(2) of this section to TSA.

(d) *Category 4—Recurrent training for all aircraft.* Prior to beginning recurrent training for a candidate, a flight school must—

(1) Notify TSA that the candidate has requested such recurrent training; and

(2) Submit to TSA, in a form and manner acceptable to TSA:

(i) The candidate's full name, including any aliases used by the candidate or variations in the spelling of the candidate's name;

(ii) Any unique student identification number issued to the candidate by the Department of Justice or TSA;

(iii) A copy of the candidate's current, unexpired passport and visa;

(iv) The candidate's current U.S. pilot certificate, certificate number, and type rating(s);

(v) The type of training for which the candidate is applying;

(vi) The date of the candidate's prior recurrent training, if any, and a copy of the training form documenting that recurrent training;

(vii) The candidate's requested dates of training; and

(viii) A photograph of the candidate taken when the candidate arrives at the flight school for flight training.

(e) *Interruption of flight training.* A flight school must immediately terminate or cancel a candidate's flight training if TSA notifies the flight school at any time that the candidate poses a threat to aviation or national security.

(f) *Fingerprints.* (1) Fingerprints submitted in accordance with this subpart must be collected—

(i) By United States Government personnel at a United States embassy or consulate; or

(ii) By another entity approved by TSA.

(2) A candidate must confirm his or her identity to the individual or agency collecting his or her fingerprints under paragraph (f)(1) of this section by providing the individual or agency his or her:

- (i) Passport;
- (ii) Resident alien card; or
- (iii) U.S. driver's license.

(3) A candidate must pay any fee imposed by the agency taking his or her fingerprints.

(g) *General requirements*—(1) *False statements*. If a candidate makes a knowing and willful false statement, or omits a material fact, when submitting the information required under this part, the candidate may be—

- (i) Subject to fine or imprisonment or both under 18 U.S.C. 1001;
- (ii) Denied approval for flight training under this section; and
- (iii) Subject to other enforcement action, as appropriate.

(2) *Preliminary approval*. For purposes of facilitating a candidate's visa process with the U.S. Department of State, TSA may inform a flight school and a candidate that the candidate has received preliminary approval for flight training based on information submitted by the flight school or the candidate under this section. A flight school may then issue an I-20 form to the candidate to present with the candidate's visa application. Preliminary approval does not initiate the waiting period under paragraph (a)(3) or (b)(1)(iii) of this section or the period in which a flight school must initiate a candidate's training after receiving TSA approval under paragraph (a)(4) or (b)(1)(iv) of this section.

(h) *U.S. citizens and nationals and Department of Defense endorsees*. A flight school must determine whether an individual is a citizen or national of the United States, or a Department of Defense endorsee, prior to providing flight training to the individual.

(1) *U.S. citizens and nationals*. To establish U.S. citizenship or nationality an individual must present to the flight school his or her:

(i) Valid, unexpired United States passport;

(ii) Original or government-issued certified birth certificate of the United States, American Samoa, or Swains Island, together with a government-issued picture identification of the individual;

(iii) Original United States naturalization certificate with raised seal, or a Certificate of Naturalization issued by the U.S. Citizenship and Immigration Services (USCIS) or the U.S. Immigration and Naturalization Service (INS) (Form N-550 or Form N-570), together with a government-issued picture identification of the individual;

(iv) Original certification of birth abroad with raised seal, U.S. Department of State Form FS-545, or U.S. Department of State Form DS-1350, together with a government-issued picture identification of the individual;

(v) Original certificate of United States citizenship with raised seal, a Certificate of United States Citizenship issued by the USCIS or INS (Form N-560 or Form N-561), or a Certificate of Repatriation issued by the USCIS or INS (Form N-581), together with a government-issued picture identification of the individual; or

(vi) In the case of flight training provided to a Federal employee (including military personnel) pursuant to a contract between a Federal agency and a flight school, the agency's written certification as to its employee's United States citizenship or nationality, together with the employee's government-issued credentials or other Federally-issued picture identification.

(2) *Department of Defense endorsees*. To establish that an individual has been endorsed by the U.S. Department of Defense for flight training, the individual must present to the flight school a written statement acceptable to TSA from the U.S. Department of Defense attaché in the individual's country of residence together with a government-issued picture identification of the individual.

(i) *Recordkeeping requirements*. A flight school must—

(1) Maintain the following information for a minimum of 5 years:

- (i) For each candidate:

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(A) A copy of the photograph required under paragraph (a)(3), (b)(1)(iii), (c)(3), or (d)(2)(viii) of this section; and

(B) A copy of the approval sent by TSA confirming the candidate's eligibility for flight training.

(ii) For a Category 1, Category 2, or Category 3 candidate, a copy of the information required under paragraph (a)(2) of this section, except the information in paragraph (a)(2)(x).

(iii) For a Category 4 candidate, a copy of the information required under paragraph (d)(2) of this section.

(iv) For an individual who is a United States citizen or national, a copy of the information required under paragraph (h)(1) of this section.

(v) For an individual who has been endorsed by the U.S. Department of Defense for flight training, a copy of the information required under paragraph (h)(2) of this section.

(vi) A record of all fees paid to TSA in accordance with this part.

(2) Permit TSA and the Federal Aviation Administration to inspect the records required by paragraph (i)(1) of this section during reasonable business hours.

(j) *Candidates subject to the Department of Justice rule.* A candidate who submits a completed Flight Training Candidate Checks Program form and fingerprints to the Department of Justice in accordance with 28 CFR part 105 before September 28, 2004, or a later date specified by TSA, is processed in accordance with the requirements of that part. If TSA specifies a date later than the compliance dates identified in this part, individuals and flight schools who comply with 28 CFR part 105 up to that date will be considered to be in compliance with the requirements of this part.

(k) *Additional or missed flight training.* (1) A Category 1, 2, or 3 candidate who has been approved for flight training by TSA may take additional flight training without submitting fingerprints as specified in paragraph (a)(2)(x) of this section if the candidate:

(i) Submits all other information required in paragraph (a)(2) of this section, including the fee; and

(ii) Waits for TSA approval or until the applicable waiting period expires

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before initiating the additional flight training.

(2) A Category 1, 2, or 3 candidate who is approved for flight training by TSA, but does not initiate that flight training within 180 days, may reapply for flight training without submitting fingerprints as specified in paragraph (a)(2)(x) of this section if the candidate submits all other information required in paragraph (a)(2) of this section, including the fee.

§ 1552.5 Fees.

(a) *Imposition of fees.* The following fee is required for TSA to conduct a security threat assessment for a candidate for flight training subject to the requirements of § 1552.3: \$130.

(b) *Remittance of fees.* (1) A candidate must remit the fee required under this subpart to TSA, in a form and manner acceptable to TSA, each time the candidate or the flight school is required to submit the information required under § 1552.3 to TSA.

(2) TSA will not issue any fee refunds, unless a fee was paid in error.

Subpart B—Flight School Security Awareness Training

§ 1552.21 Scope and definitions.

(a) *Scope.* This subpart applies to flight schools that provide instruction under 49 U.S.C. Subtitle VII, Part A, in the operation of aircraft or aircraft simulators, and to employees of such flight schools.

(b) *Definitions:* As used in this subpart:

Flight school employee means a flight instructor or ground instructor certificated under 14 CFR part 61, 141, or 142; a chief instructor certificated under 14 CFR part 141; a director of training certificated under 14 CFR part 142; or any other person employed by a flight school, including an independent contractor, who has direct contact with a flight school student. This includes an independent or solo flight instructor certificated under 14 CFR part 61.

§ 1552.23 Security awareness training programs.

(a) *General.* A flight school must ensure that—

(1) Each of its flight school employees receives initial and recurrent security awareness training in accordance with this subpart; and

(2) If an instructor is conducting the initial security awareness training program, the instructor has first successfully completed the initial flight school security awareness training program offered by TSA or an alternative initial flight school security awareness training program that meets the criteria of paragraph (c) of this section.

(b) *Initial security awareness training program.* (1) A flight school must ensure that—

(i) Each flight school employee employed on January 18, 2005 receives initial security awareness training in accordance with this subpart by January 18, 2005; and

(ii) Each flight school employee hired after January 18, 2005 receives initial security awareness training within 60 days of being hired.

(2) In complying with paragraph (b)(2) of this section, a flight school may use either:

(i) The initial flight school security awareness training program offered by TSA; or

(ii) An alternative initial flight school security awareness training program that meets the criteria of paragraph (c) of this section.

(c) *Alternative initial security awareness training program.* At a minimum, an alternative initial security awareness training program must—

(1) Require active participation by the flight school employee receiving the training.

(2) Provide situational scenarios requiring the flight school employee receiving the training to assess specific situations and determine appropriate courses of action.

(3) Contain information that enables a flight school employee to identify—

(i) Uniforms and other identification, if any are required at the flight school, for flight school employees or other persons authorized to be on the flight school grounds.

(ii) Behavior by clients and customers that may be considered suspicious, including, but not limited to:

(A) Excessive or unusual interest in restricted airspace or restricted ground structures;

(B) Unusual questions or interest regarding aircraft capabilities;

(C) Aeronautical knowledge inconsistent with the client or customer's existing airman credentialing; and

(D) Sudden termination of the client or customer's instruction.

(iii) Behavior by other on-site persons that may be considered suspicious, including, but not limited to:

(A) Loitering on the flight school grounds for extended periods of time; and

(B) Entering "authorized access only" areas without permission.

(iv) Circumstances regarding aircraft that may be considered suspicious, including, but not limited to:

(A) Unusual modifications to aircraft, such as the strengthening of landing gear, changes to the tail number, or stripping of the aircraft of seating or equipment;

(B) Damage to propeller locks or other parts of an aircraft that is inconsistent with the pilot training or aircraft flight log; and

(C) Dangerous or hazardous cargo loaded into an aircraft.

(v) Appropriate responses for the employee to specific situations, including:

(A) Taking no action, if a situation does not warrant action;

(B) Questioning an individual, if his or her behavior may be considered suspicious;

(C) Informing a supervisor, if a situation or an individual's behavior warrants further investigation;

(D) Calling the TSA General Aviation Hotline; or

(E) Calling local law enforcement, if a situation or an individual's behavior could pose an immediate threat.

(vi) Any other information relevant to security measures or procedures at the flight school, including applicable information in the TSA Information Publication "Security Guidelines for General Aviation Airports".

(d) *Recurrent security awareness training program.* (1) A flight school must ensure that each flight school employee receives recurrent security awareness training each year in the same month as the month the flight

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school employee received initial security awareness training in accordance with this subpart.

(2) At a minimum, a recurrent security awareness training program must contain information regarding—

(i) Any new security measures or procedures implemented by the flight school;

(ii) Any security incidents at the flight school, and any lessons learned as a result of such incidents;

(iii) Any new threats posed by or incidents involving general aviation aircraft contained on the TSA Web site; and

(iv) Any new TSA guidelines or recommendations concerning the security of general aviation aircraft, airports, or flight schools.

§ 1552.25 Documentation, record-keeping, and inspection.

(a) *Documentation.* A flight school must issue a document to each flight school employee each time the flight school employee receives initial or recurrent security awareness training in accordance with this subpart. The document must—

(1) Contain the flight school employee's name and a distinct identification number.

(2) Indicate the date on which the flight school employee received the security awareness training.

(3) Contain the name of the instructor who conducted the training, if any.

(4) Contain a statement certifying that the flight school employee received the security awareness training.

(5) Indicate the type of training received, initial or recurrent.

(6) Contain a statement certifying that the alternative training program used by the flight school meets the criteria in 49 CFR 1552.23(c), if the flight school uses an alternative training program to comply with this subpart.

(7) Be signed by the flight school employee and an authorized official of the flight school.

(b) *Recordkeeping requirements.* A flight school must establish and maintain the following records for one year after an individual no longer is a flight school employee:

(1) A copy of the document required by paragraph (a) of this section for the

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initial and each recurrent security awareness training conducted for each flight school employee in accordance with this subpart; and

(2) The alternative flight school security awareness training program used by the flight school, if the flight school uses such a program.

(c) *Inspection.* A flight school must permit TSA and the Federal Aviation Administration to inspect the records required under paragraph (b) of this section during reasonable business hours.

PART 1560—SECURE FLIGHT PROGRAM

Subpart A—General

Sec.

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SOURCE: 73 FR 64061, Oct. 28, 2008, unless otherwise noted.

Subpart A—General

§ 1560.1 Scope, purpose, and implementation.

(a) *Scope.* This part applies to the following:

(1) Aircraft operators required to adopt a full program under 49 CFR 1544.101(a).

(2) Foreign air carriers required to adopt a security program under 49 CFR 1546.101(a) or (b).

(3) Airport operators that seek to authorize individuals to enter a sterile area for purposes approved by TSA.

(4) Individuals who seek redress in accordance with subpart C of this part.

(b) *Purpose.* The purpose of this part is to enhance the security of air travel within the United States and support the Federal government's counterterrorism efforts by assisting in the detection of individuals identified on Federal government watch lists who seek to travel by air, and to facilitate the secure travel of the public. This part enables TSA to operate a watch list matching program known as Secure Flight, which involves the comparison of passenger and non-traveler information with the identifying information of individuals on Federal government watch lists.

(c) *Implementation.* Each covered aircraft operator must begin requesting the information described in §1560.101(a)(1) and have the capability to transmit SFPD to TSA in accordance with its Aircraft Operator Implementation Plan (AOIP) as approved by TSA. Each covered aircraft operator must begin transmitting information to TSA as required in §1560.101(b) on the date specified in, and in accordance with, its AOIP as approved by TSA. TSA will inform each covered aircraft operator 60 days prior to the date on which TSA will assume the watch list matching function from that aircraft operator.

§ 1560.3 Terms used in this part.

In addition to the terms in §§1500.3 and 1540.5 of this chapter, the following terms apply to this part:

Aircraft Operator Implementation Plan or *AOIP* means a written procedure describing how and when a covered aircraft operator or airport operator transmits passenger and flight information and non-traveler information to TSA, as well as other related matters.

Airport code means the official code, designated by the International Air Transport Association (IATA), for an airport.

Consolidated User Guide means a document developed by the Department of Homeland Security (DHS) to provide guidance to aircraft operators that must transmit passenger information to one or more components of DHS on operational processing and transmission of passenger information to all required components in a unified manner. The Consolidated User Guide is part of the covered aircraft operator's security program.

Covered aircraft operator means each aircraft operator required to carry out a full program under 49 CFR 1544.101(a) or a security program under 49 CFR 1546.101(a) or (b).

Covered airport operator means each airport operator that seeks to authorize non-traveling individuals to enter a sterile area for a purpose permitted by TSA.

Covered flight means any operation of an aircraft that is subject to or operates under a full program under 49 CFR 1544.101(a). *Covered flight* also means any operation of an aircraft that is subject to or operates under a security program under 49 CFR 1546.101(a) or (b) arriving in or departing from the United States, or overflying the continental United States. *Covered flight* does not include any flight for which TSA has determined that the Federal government is conducting passenger matching comparable to the matching conducted pursuant to this part.

Date of birth means the day, month, and year of an individual's birth.

Department of Homeland Security Traveler Redress Inquiry Program or *DHS TRIP* means the voluntary program through which individuals may request redress if they believe they have been:

(1) Denied or delayed boarding transportation due to DHS screening programs;

(2) Denied or delayed entry into or departure from the United States at a port of entry; or

(3) Identified for additional (secondary) screening at U.S. transportation facilities, including airports, and seaports.

Full name means an individual's full name as it appears on a verifying identity document held by the individual.

Inhibited status means the status of a passenger or non-traveling individual

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to whom TSA has instructed a covered aircraft operator or a covered airport operator not to issue a boarding pass or to provide access to the sterile area.

Itinerary information means information reflecting a passenger's or non-traveling individual's itinerary specified in the covered aircraft operator's AOIP. For non-traveling individuals, itinerary information is the airport code for the sterile area to which the non-traveler seeks access. For passengers, itinerary information includes the following:

- (1) Departure airport code.
- (2) Aircraft operator.
- (3) Scheduled departure date.
- (4) Scheduled departure time.
- (5) Scheduled arrival date.
- (6) Scheduled arrival time.
- (7) Arrival airport code.
- (8) Flight number.
- (9) Operating carrier (if available).

Known Traveler Number means a unique number assigned to an individual for whom the Federal government has conducted a security threat assessment and determined does not pose a security threat.

Non-traveling individual or *non-traveler* means an individual to whom a covered aircraft operator or covered airport operator seeks to issue an authorization to enter the sterile area of an airport in order to escort a minor or a passenger with disabilities or for some other purpose permitted by TSA. The term *non-traveling individual* or *non-traveler* does not include employees or agents of airport or aircraft operators or other individuals whose access to a sterile area is governed by another TSA requirement.

Overflying the continental United States means departing from an airport or location outside the United States and transiting the airspace of the continental United States en route to another airport or location outside the United States. Airspace of the continental United States includes the airspace over the lower 48 states of the United States, not including Alaska or Hawaii, and the airspace overlying the territorial waters between the U.S. coast of the lower 48 states and 12 nautical miles from the continental U.S. coast. *Overflying the continental United States* does not apply to:

(1) Flights that transit the airspace of the continental United States between two airports or locations in the same country, where that country is Canada or Mexico; or

(2) Any other category of flights that the Assistant Secretary of Homeland Security (Transportation Security Administration) designates in a notice in the FEDERAL REGISTER.

Passenger means an individual who is traveling on a covered flight. The term *passenger* does not include:

- (1) A crew member who is listed as a crew member on the flight manifest; or
- (2) An individual with flight deck privileges under 49 CFR 1544.237 traveling on the flight deck.

Passenger Resolution Information or *PRI* means the information that a covered aircraft operator or covered airport operator transmits to TSA for an individual who TSA places in an inhibited status and from whom the covered aircraft operator or covered airport operator is required to request additional information and a Verifying Identity Document. *Passenger Resolution Information* includes, but is not limited to, the following:

- (1) Covered aircraft operator's agent identification number or agent sine.
- (2) Type of Verifying Identity Document presented by the passenger.
- (3) The identification number on the Verifying Identity Document.
- (4) Issue date of the Verifying Identity Document.
- (5) Name of the governmental authority that issued the Verifying Identity Document.
- (6) Physical attributes of the passenger such as height, eye color, or scars, if requested by TSA.

Passport information means the following information from an individual's passport:

- (1) Passport number.
- (2) Country of issuance.
- (3) Expiration date.
- (4) Gender.
- (5) Full name.

Redress Number means the number assigned by DHS to an individual processed through the redress procedures described in 49 CFR part 1560, subpart C.

Secure Flight Passenger Data or (*SFPD*) means information regarding a

passenger or non-traveling individual that a covered aircraft operator or covered airport operator transmits to TSA, to the extent available, pursuant to §1560.101. *SFPD* is the following information regarding a passenger or non-traveling individual:

- (1) Full name.
- (2) Date of birth.
- (3) Gender.
- (4) Redress number or Known Traveler Number (once implemented).
- (5) Passport information.
- (6) Reservation control number.
- (7) Record sequence number.
- (8) Record type.
- (9) Passenger update indicator.
- (10) Traveler reference number.
- (11) Itinerary information.

Self-service kiosk means a kiosk operated by a covered aircraft operator that is capable of accepting a passenger reservation or a request for authorization to enter a sterile area from a non-traveling individual.

Sterile area means “sterile area” as defined in 49 CFR 1540.5.

Terrorist Screening Center or *TSC* means the entity established by the Attorney General to carry out Homeland Security Presidential Directive 6 (HSPD-6), dated September 16, 2003, to consolidate the Federal government’s approach to terrorism screening and provide for the appropriate and lawful use of terrorist information in screening processes.

Verifying Identity Document means one of the following documents:

- (1) An unexpired passport issued by a foreign government.
- (2) An unexpired document issued by a U.S. Federal, State, or tribal government that includes the following information for the individual:
 - (i) Full name.
 - (ii) Date of birth.
 - (iii) Photograph.
- (3) Such other documents that TSA may designate as valid verifying identity documents.

Watch list refers to the No Fly and Selectee List components of the Terrorist Screening Database maintained by the Terrorist Screening Center. For certain flights, the “watch list” may include the larger set of watch lists maintained by the Federal government

as warranted by security considerations.

Subpart B—Collection and Transmission of Secure Flight Passenger Data for Watch List Matching

§1560.101 Request for and transmission of information to TSA.

(a) *Request for information.* (1) Each covered aircraft operator must request the full name, gender, date of birth, and Redress Number for passengers on a covered flight and non-traveling individuals seeking access to an airport sterile area. For reservations made 72 hours prior to the scheduled time of departure for each covered flight, the covered aircraft operator must collect full name, gender, and date of birth for each passenger when the reservation is made or at a time no later than 72 hours prior to the scheduled time of departure of the covered flight. For an individual that makes a reservation for a covered flight within 72 hours of the scheduled time of departure for the covered flight, the covered aircraft operator must collect the individual’s full name, date of birth, and gender at the time of reservation. The covered aircraft operator must include the information provided by the individual in response to this request in the SFPD.

(i) Except as provided in paragraph (a)(1)(ii) of this section, each covered aircraft operator must begin requesting the information described in paragraph (a)(1) of this section in accordance with its AOIP as approved by TSA.

(ii) An aircraft operator that becomes a covered aircraft operator after the effective date of this part must begin requesting the information on the date it becomes a covered aircraft operator.

(2) Beginning on a date no later than 30 days after being notified in writing by TSA, each covered aircraft operator must additionally request the Known Traveler Number for passengers on a covered flight and non-traveling individuals seeking access to an airport sterile area. The covered aircraft operator must include the Known Traveler Number provided by the passenger in response to this request in the SFPD.

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(3) Each covered aircraft operator may not submit SFPD for any passenger on a covered flight who does not provide a full name, date of birth and gender. Each covered aircraft operator may not accept a request for authorization to enter a sterile area from a non-traveling individual who does not provide a full name, date of birth and gender.

(4) Each covered aircraft operator must ensure that each third party that accepts a reservation, or accepts a request for authorization to enter a sterile area, on the covered aircraft operator's behalf complies with the requirements of this section.

(5) If the covered aircraft operator also has an operation of an aircraft that is subject to 49 CFR 1544.101(b) through (i), the covered aircraft operator may submit SFPD for passengers on these operations for watch list matching under this part, provided that the covered aircraft operator—

(i) Collects and transmits the SFPD for the passengers in accordance with this section;

(ii) Provides the privacy notice to the passengers in accordance with 49 CFR 1560.103; and

(iii) Complies with the requirements of 49 CFR 1560.105 and 1560.107.

(b) *Transmission of Secure Flight Passenger Data to TSA.* Beginning on the date provided in a covered aircraft operator's AOIP, the covered aircraft operator must electronically transmit SFPD to TSA, prior to the scheduled departure of each covered flight, in accordance with its AOIP as approved by TSA.

(1) To the extent available, each covered aircraft operator must electronically transmit SFPD to TSA for each passenger on a covered flight.

(2) Each covered aircraft operator must transmit SFPD to TSA prior to the scheduled flight departure time, in accordance with its AOIP as approved by TSA.

(c) *Transmission of non-traveler information to TSA.* Beginning on the date provided in a covered aircraft operator's AOIP, the covered aircraft operator must electronically transmit SFPD to TSA for each non-traveling individual, prior to authorizing access to an airport sterile area.

(d) *Retransmission of information.* Each covered aircraft operator must retransmit to TSA updates to the information listed in paragraphs (b) and (c) of this section to reflect most recent changes to that information, as specified in its AOIP as approved by TSA.

§ 1560.103 Privacy notice.

(a) *Electronic collection of information—(1) Current electronic collection of information.* Prior to collecting information through a Web site or self-service kiosk from a passenger or non-traveling individual in order to comply with § 1560.101(a), a covered aircraft operator must make available the complete privacy notice set forth in paragraph (b) of this section.

(2) *Other electronic collection of information.* If a covered aircraft operator collects information directly from a passenger or non-traveling individual in order to comply with § 1560.101(a) through an electronic means not described in paragraph (a)(1) of this section, the covered aircraft operator must make available the complete privacy notice set forth in paragraph (b) of this section.

(3) *Third party Web site.* Each covered aircraft operator must ensure that each third party that maintains a Web site capable of making a reservation for the covered aircraft operator's reservation system, make available on its Web site the complete privacy notice set forth in paragraph (b) of this section prior to collecting information through the Web site.

(b) *Privacy notice.* The covered aircraft operator may substitute its name for the word "us," but the complete privacy notice otherwise must be identical to the following paragraph unless TSA has approved alternative language:

The Transportation Security Administration of the U.S. Department of Homeland Security requires us to collect information from you for purposes of watch list screening, under the authority of 49 U.S.C. section 114, and the Intelligence Reform and Terrorism Prevention Act of 2004. Providing this information is voluntary; however, if it is not provided, you may be subject to additional screening or denied transport or authorization to enter a sterile area. TSA may share information you provide with law enforcement or intelligence agencies or others

under its published system of records notice. For more on TSA Privacy policies, or to view the system of records notice and the privacy impact assessment, please see TSA's Web site at www.tsa.gov.

§ 1560.105 Denial of transport or sterile area access; designation for enhanced screening.

(a) *Applicability.* (1) This section applies to each covered aircraft operator beginning on the date that TSA assumes the watch list matching function for the passengers and non-traveling individuals to whom that covered aircraft operator issues a boarding pass or other authorization to enter a sterile area. TSA will provide prior written notification to the covered aircraft operator no later than 60 days before the date on which it will assume the watch list matching function from that covered aircraft operator.

(2) Prior to the date that TSA assumes the watch list matching function from a covered aircraft operator, the covered aircraft operator must comply with existing watch list matching procedures for passengers and non-traveling individuals, including denial of transport or sterile area access or designation for enhanced screening for individuals identified by the covered aircraft operator or TSA.

(b) *Watch list matching results.* Except as provided in paragraph (b) of this section, a covered aircraft operator must not issue a boarding pass or other authorization to enter a sterile area to a passenger or a non-traveling individual, and must not allow that individual to board an aircraft or enter a sterile area, until TSA informs the covered aircraft operator of the results of watch list matching for that passenger or non-traveling individual, in response to the covered aircraft operator's most recent SFPD submission for that passenger or non-traveling individual.

(1) *Denial of boarding pass.* If TSA sends a covered aircraft operator a boarding pass printing result that says the passenger or non-traveling individual must be placed on inhibited status, the covered aircraft operator must not issue a boarding pass or other authorization to enter a sterile area to that individual and must not allow that individual to board an aircraft or enter a sterile area.

(2) *Selection for enhanced screening.* If TSA sends a covered aircraft operator a boarding pass printing result that says the passenger has been selected for enhanced screening at a security checkpoint, the covered aircraft operator may issue a boarding pass to that individual and must identify the individual for enhanced screening, in accordance with procedures approved by TSA. The covered aircraft operator must place a code on the boarding pass that meets the requirements described in the Consolidated User Guide. If TSA sends a covered aircraft operator a boarding pass printing result that says the non-traveling individual has been selected for enhanced screening at a security checkpoint, the covered aircraft operator must not issue an authorization to enter a sterile area to that individual.

(3) *Cleared for boarding or entry into a sterile area.* If TSA sends a covered aircraft operator a boarding pass printing result that instructs a covered aircraft operator that a passenger or non-traveling individual is cleared, the covered aircraft operator may issue a boarding pass or other authorization to enter a sterile area to that individual, unless required under another TSA requirement to identify the passenger or non-traveling individual for enhanced screening or to deny entry into the sterile area. The covered aircraft operator must place a code on the boarding pass or authorization to enter the sterile area that meets the requirements described in the Consolidated User Guide.

(4) *Override by a covered aircraft operator.* No covered aircraft operator may override a TSA boarding pass printing result that instructs a covered aircraft operator to place a passenger or non-traveling individual in an inhibited status or to identify a passenger or non-traveling individual for enhanced screening, unless explicitly authorized by TSA to do so.

(5) *Updated SFPD from covered aircraft operator.* When a covered aircraft operator sends updated SFPD to TSA under § 1560.101(d) for a passenger or non-traveling individual for whom TSA has already issued a boarding pass printing result, all previous TSA results concerning the passenger or non-traveling

individual are voided. The covered aircraft operator may not issue a boarding pass or grant authorization to enter a sterile area until it receives an updated result from TSA authorizing the issuance of a boarding pass or authorization to enter a sterile area. Upon receiving an updated result from TSA, the covered aircraft operator must acknowledge receipt of the updated result, comply with the updated result, and disregard all previous boarding pass printing results.

(6) *Updated boarding pass printing results from TSA.* After TSA sends a covered aircraft operator a result under paragraph (b)(1), (b)(2), or (b)(3) of this section, TSA may receive additional information concerning the passenger or non-traveling individual and may send an updated boarding pass printing result concerning that passenger or non-traveling individual to the covered aircraft operator. Upon receiving an updated boarding pass printing result from TSA, the covered aircraft operator must acknowledge receipt of the updated result, comply with the updated result, and disregard all previous results.

(7) *Boarding pass issuance for covered flights to or overflying the United States.* Covered aircraft operators may permit another aircraft operator to issue a boarding pass for a covered flight departing from a foreign location to the United States or overflying the United States without regard to the requirements in paragraphs (b)(1) through (b)(6) of this section provided that—

(i) Before allowing the individual to board the aircraft for a covered flight, the covered aircraft operator confirms that it has received a boarding pass printing result from DHS for individuals who are issued boarding passes under paragraph (b)(7) of this section;

(ii) Before allowing the individual to board an aircraft for a covered flight, the covered aircraft operator applies the measures in its security program to prevent an individual for whom DHS has returned an inhibited status boarding pass printing result under paragraph (b)(1) of this section from boarding the aircraft; and

(iii) The covered aircraft operator applies the measures in its security program, as provided in 49 CFR part 1544,

subpart B or 49 CFR part 1546, subpart B, to ensure that an individual for whom DHS returns a Selectee result under paragraph (b)(2) of this section undergoes enhanced screening pursuant to the covered aircraft operator's security program prior to that individual boarding the aircraft.

(c) *Request for identification—(1) In general.* If TSA has not informed the covered aircraft operator of the results of watch list matching for an individual by the time the individual attempts to check in, or informs the covered aircraft operator that an individual has been placed in inhibited status, the aircraft operator must request from the individual a verifying identity document pursuant to procedures in its security program, as provided in 49 CFR part 1544, subpart B or 49 CFR part 1546, subpart B. The individual must present a verifying identity document to the covered aircraft operator at the airport.

(2) *Transmission of Updated Secure Flight Passenger Data.* Upon reviewing a passenger's verifying identity document, the covered aircraft operator must transmit the SFPD elements from the individual's verifying identity document to TSA.

(3) *Provision of Passenger Resolution Information.* If requested by TSA, the covered aircraft operator must also provide to TSA the individual's Passenger Resolution Information as specified by TSA.

(4) *Exception for minors.* If a covered aircraft operator is required to obtain information from an individual's verifying identity document under this paragraph (c), and the individual is younger than 18 years of age and does not have a verifying identity document, TSA may, on a case-by-case basis, authorize the minor or an adult accompanying the minor to state the individual's full name and date of birth in lieu of providing a verifying identity document.

(d) *Failure to obtain identification.* If a passenger or non-traveling individual does not present a verifying identity document when requested by the covered aircraft operator, in order to comply with paragraph (c) of this section, the covered aircraft operator must not

issue a boarding pass or give authorization to enter a sterile area to that individual and must not allow that individual to board an aircraft or enter a sterile area, unless otherwise authorized by TSA.

§ 1560.107 Use of watch list matching results by covered aircraft operators.

A covered aircraft operator must not use any watch list matching results provided by TSA for purposes other than those provided in §1560.105 and other security purposes.

§ 1560.109 Aircraft Operator Implementation Plan.

(a) *Content of the Aircraft Operator Implementation Plan (AOIP).* Each covered aircraft operator must adopt and carry out an AOIP that sets forth the following:

(1) The covered aircraft operator's test plan with TSA.

(2) When the covered operator will begin to collect and transmit to TSA each data element of the SFPD for each covered flight.

(3) The specific means by which the covered aircraft operator will request and transmit information under §1560.101, the timing and frequency of transmission, and any other related matters, in accordance with the Consolidated User Guide.

(b) *Adoption of Aircraft Operator Implementation Plan (AOIP).* Each covered aircraft operator must adopt an AOIP pursuant to the procedures set forth in this paragraph (b).

(1) TSA notifies each covered aircraft operator in writing of a proposed AOIP, fixing a period of not less than 30 days within which the covered aircraft operator may submit written information, views, and arguments on the proposed AOIP.

(2) After considering all relevant material, TSA's designated official notifies each covered aircraft operator of its AOIP. The AOIP becomes effective not less than 30 days after the covered aircraft operator receives the notice of its AOIP, unless the covered aircraft operator petitions the Assistant Secretary or designated official to reconsider no later than 15 days before the effective date of the AOIP. The covered

aircraft operator must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the AOIP.

(3) Upon receipt of a petition for reconsideration, the designated official either amends the AOIP or transmits the petition, together with any pertinent information, to the Assistant Secretary or designee for reconsideration. The Assistant Secretary or designee disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the AOIP, or by affirming the AOIP.

(4) TSA may, at its discretion, grant extensions to any schedule deadlines, on its own initiative or upon the request of a covered aircraft operator.

(c) *Incorporation into Security Program.* Once an AOIP is approved, the AOIP becomes part of the covered aircraft operator's security program as described in 49 CFR part 1544, subpart B, or 49 CFR part 1546, subpart B, as appropriate, and any amendments will be made in accordance with the procedures in those subparts.

(d) *Handling of Aircraft Operator Implementation Plan (AOIP).* An AOIP contains sensitive security information (SSI) and must be handled and protected in accordance with 49 CFR part 1520.

§ 1560.111 Covered airport operators.

(a) *Applicability.* This section applies to a covered airport operator that has a program approved by TSA through which the covered airport operator may authorize non-traveling individuals to enter a sterile area.

(b) *Requirements.* A covered airport operator must adopt and carry out an AOIP in accordance with §1560.109. Each covered airport operator must comply with the procedures required of covered aircraft operators in §§1560.101(a), (c), and (d), 1560.103, and 1560.107 of this part and any other applicable TSA requirements when authorizing non-traveling individuals to enter a sterile area.

Subpart C—Passenger Redress

§ 1560.201 Applicability.

This subpart applies to individuals who believe they have been improperly or unfairly delayed or prohibited from boarding an aircraft or entering a sterile area as a result of the Secure Flight program.

§ 1560.203 Representation by counsel.

A person may be represented by counsel at his or her own expense during the redress process.

§ 1560.205 Redress process.

(a) If an individual believes he or she has been improperly or unfairly delayed or prohibited from boarding an aircraft or entering a sterile area as a result of the Secure Flight program, the individual may seek assistance through the redress process established under this section.

(b) An individual may obtain the forms and information necessary to initiate the redress process on the DHS TRIP Web site at *http://www.dhs.gov/trip* or by contacting the DHS TRIP office by mail. Individuals should send written requests for forms to the DHS TRIP office and include their name and address in the request. DHS will provide the necessary forms and information to individuals through its Web site or by mail.

(c) The individual must send to the DHS TRIP office the personal information and copies of the specified identification documents. If TSA needs additional information in order to continue the redress process, TSA will so notify the individual in writing and request that additional information. The DHS TRIP Office will assign the passenger a unique identifier, which TSA will recognize as the Redress Number, and the passenger may use that Redress Number in future correspondence with TSA and when making future travel reservations.

(d) TSA, in coordination with the TSC and other appropriate Federal law enforcement or intelligence agencies, if necessary, will review all the documentation and information requested from the individual, correct any erroneous information, and provide the in-

dividual with a timely written response.

§ 1560.207 Oversight of process.

The redress process and its implementation are subject to review by the TSA and DHS Privacy Offices and the TSA and DHS Offices for Civil Rights and Civil Liberties.

PART 1562—OPERATIONS IN THE WASHINGTON, DC, METROPOLITAN AREA

Subpart A—Maryland Three Airports: Enhanced Security Procedures for Operations at Certain Airports in the Washington, DC, Metropolitan Area Flight Restricted Zone

Sec.

- 1562.1 Scope and definitions.
- 1562.3 Operating requirements.

Subpart B—Ronald Reagan Washington National Airport: Enhanced Security Procedures for Certain Operations

- 1562.21 Scope, general requirements, and definitions.
- 1562.23 Aircraft operator and passenger requirements.
- 1562.25 Fixed base operator requirements.
- 1562.27 Costs.
- 1562.29 Armed security officer requirements.

AUTHORITY: 49 U.S.C. 114, 40114, Sec. 823, Pub. L. 108–176, 117 Stat. 2595.

SOURCE: 70 FR 7162, Feb. 10, 2005, unless otherwise noted.

Subpart A—Maryland Three Airports: Enhanced Security Procedures for Operations at Certain Airports in the Washington, DC, Metropolitan Area Flight Restricted Zone

§ 1562.1 Scope and definitions.

(a) *Scope.* This subpart applies to the following airports, and individuals who operate an aircraft to or from those airports, that are located within the airspace designated as the Washington, DC, Metropolitan Area Flight Restricted Zone by the Federal Aviation Administration:

- (1) College Park Airport (CGS);
- (2) Potomac Airfield (VKX); and

(3) Washington Executive/Hyde Field (W32).

(b) *Definitions.* For purposes of this section:

Airport security coordinator means the official at a Maryland Three Airport who is responsible for ensuring that the airport's security procedures are implemented and followed.

Maryland Three Airport means any of the airports specified in paragraph (a) of this section.

§ 1562.3 Operating requirements.

(a) *Airport operator requirements.* Each operator of a Maryland Three Airport must:

(1) Appoint an airport employee as the airport security coordinator;

(2) Maintain and carry out security procedures approved by TSA;

(3) Maintain at the airport a copy of the airport's TSA-approved security procedures;

(4) Maintain at the airport a copy of each Federal Aviation Administration Notice to Airmen and rule that affects security procedures at the Maryland Three Airports; and

(5) Permit officials authorized by TSA to inspect—

(i) The airport;

(ii) The airport's TSA-approved security procedures; and

(iii) Any other documents required under this section.

(b) *Airport security coordinator requirements.* Each airport security coordinator for a Maryland Three Airport must be approved by TSA. To obtain TSA approval, an airport security coordinator must:

(1) Present to TSA, in a form and manner acceptable to TSA, his or her—

(i) Name;

(ii) Social Security Number;

(iii) Date of birth;

(iv) Address;

(v) Phone number; and

(vi) Fingerprints.

(2) Successfully complete a TSA terrorist threat assessment; and

(3) Not have been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years prior to applying for authorization to operate to or from the airport, or while authorized to operate to or from the air-

port, of any crime specified in 49 CFR 1542.209 or 1572.103.

(c) *Security procedures.* To be approved by TSA, an airport's security procedures, at a minimum, must:

(1) Identify and provide contact information for the airport's airport security coordinator.

(2) Contain a current record of the individuals and aircraft authorized to operate to or from the airport.

(3) Contain procedures to—

(i) Monitor the security of aircraft at the airport during operational and non-operational hours; and

(ii) Alert the aircraft owner(s) and operator(s), the airport operator, and TSA of unsecured aircraft.

(4) Contain procedures to implement and maintain security awareness procedures at the airport.

(5) Contain procedures for limited approval of pilots who violate the Washington, DC, Metropolitan Area Flight Restricted Zone and are forced to land at the airport.

(6) Contain any additional procedures required by TSA to provide for the security of aircraft operations to or from the airport.

(d) *Amendments to security procedures.* Airport security procedures approved by TSA remain in effect unless TSA determines that—

(1) Operations at the airport have not been conducted in accordance with those procedures; or

(2) The procedures must be amended to provide for the security of aircraft operations to or from the airport.

(e) *Pilot requirements for TSA approval.* Except as specified in paragraph (g) of this section, each pilot of an aircraft operating to or from any of the Maryland Three Airports must be approved by TSA. To obtain TSA approval, a pilot must:

(1) Present to TSA—

(i) The pilot's name;

(ii) The pilot's Social Security Number;

(iii) The pilot's date of birth;

(iv) The pilot's address;

(v) The pilot's phone number;

(vi) The pilot's current and valid airman certificate or current student pilot certificate;

(vii) The pilot's current medical certificate;

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(viii) One form of Government-issued picture identification of the pilot;

(ix) The pilot's fingerprints, in a form and manner acceptable to TSA; and

(x) A list containing the make, model, and registration number of each aircraft that the pilot intends to operate to or from the airport.

(2) Successfully complete a TSA terrorist threat assessment.

(3) Receive a briefing acceptable to TSA and the Federal Aviation Administration that describes procedures for operating to and from the airport.

(4) Not have been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years prior to applying for authorization to operate to or from the airport, or while authorized to operate to or from the airport, of any crime specified in 49 CFR 1542.209 or 1572.103.

(5) Not, in TSA's discretion, have a record on file with the Federal Aviation Administration of a violation of—

(i) A prohibited area designated under 14 CFR part 73;

(ii) A flight restriction established under 14 CFR 91.141;

(iii) Special security instructions issued under 14 CFR 99.7;

(iv) A restricted area designated under 14 CFR part 73;

(v) Emergency air traffic rules issued under 14 CFR 91.139;

(vi) A temporary flight restriction designated under 14 CFR 91.137, 91.138, or 91.145; or

(vii) An area designated under 14 CFR 91.143.

(f) *Additional pilot requirements.* Except as specified in paragraph (g) of this section, each pilot of an aircraft operating to or from any of the Maryland Three Airports must:

(1) Protect from unauthorized disclosure any identification information issued by TSA or the Federal Aviation Administration for the conduct of operations to or from the airport.

(2) Secure the aircraft after returning to the airport from any flight.

(3) Comply with any other requirements for operating to or from the airport specified by TSA or the Federal Aviation Administration.

(g) *Operations to any of the Maryland Three Airports.* A pilot who is approved by TSA in accordance with paragraph

(d) of this section may operate an aircraft to any of the Maryland Three Airports, provided that the pilot—

(1) Files an instrument flight rules or visual flight rules flight plan with Leesburg Automated Flight Service Station;

(2) Obtains an Air Traffic Control clearance with a discrete transponder code; and

(3) Follows any arrival/departure procedures required by the Federal Aviation Administration.

(h) *U.S. Armed forces, law enforcement, and aeromedical services aircraft.* An individual may operate a U.S. Armed Forces, law enforcement, or aeromedical services aircraft on an authorized mission to or from any of the Maryland Three Airports provided that the individual complies with any requirements for operating to or from the airport specified by TSA or the Federal Aviation Administration.

(i) *Continuing responsibilities.* (1) If an airport security coordinator, or a pilot who is approved to operate to or from any of the Maryland Three Airports, is convicted or found not guilty by reason of insanity, in any jurisdiction, of any crime specified in 49 CFR 1542.209 or 1572.103, the airport security coordinator or pilot must notify TSA within 24 hours of the conviction or finding of not guilty by reason of insanity. TSA may withdraw its approval of the airport security coordinator or pilot as a result of the conviction or finding of not guilty by reason of insanity.

(2) If a pilot who is approved to operate to or from any of the Maryland Three Airports commits any of the violations described in paragraph (e)(5) of this section, the pilot must notify TSA within 24 hours of the violation. TSA, in its discretion, may withdraw its approval of the pilot as a result of the violation.

(3) If an airport security coordinator, or a pilot who is approved to operate to or from any of the Maryland Three Airports, is determined by TSA to pose a threat to national or transportation security, or a threat of terrorism, TSA may withdraw its approval of the airport security coordinator or pilot.

(j) *Waivers.* TSA, in coordination with the Federal Aviation Administration, the United States Secret Service, and

any other relevant agency, may permit an operation to or from any of the Maryland Three Airports, in deviation from the provisions of this section, if TSA finds that such action—

- (1) Is in the public interest; and
- (2) Provides the level of security required by this section.

Subpart B—Ronald Reagan Washington National Airport: Enhanced Security Procedures for Certain Operations

SOURCE: 70 FR 41600, July 19, 2005, unless otherwise noted.

§ 1562.21 Scope, general requirements, and definitions.

(a) *Scope.* This subpart applies to aircraft operations into or out of Ronald Reagan Washington National Airport (DCA), fixed base operators located at DCA or gateway airports; individuals designated as a security coordinator by aircraft operators or fixed base operators; and crewmembers, passengers, and armed security officers on aircraft operations subject to this subpart.

(b) *General requirements.* Each person operating an aircraft into or out of DCA must comply with this subpart, except:

- (1) Military, law enforcement, and medivac aircraft operations;
- (2) Federal and State government aircraft operations operating under an airspace waiver approved by TSA and the Federal Aviation Administration;
- (3) All-cargo aircraft operations; and
- (4) Passenger aircraft operations conducted under:
 - (i) A full security program approved by TSA in accordance with 49 CFR 1544.101(a); or
 - (ii) A foreign air carrier security program approved by TSA in accordance with 49 CFR 1546.101(a) or (b).

(c) *Other security programs.* Each aircraft operator required to comply with this subpart for an aircraft operation into or out of DCA must also comply with any other TSA-approved security program that covers that operation. If any requirements of the DASSP conflict with the requirements of another TSA-approved security program, the aircraft operation must be conducted

in accordance with the requirements of the DASSP.

(d) *Definitions.* For purposes of this subpart, the following definitions apply:

Armed Security Officer Program means the security program approved by TSA, in coordination with the Federal Air Marshal Service, for security officers authorized to carry a firearm under § 1562.29 of this part.

Crewmember means a person assigned to perform duty in an aircraft during flight time. This does not include an armed security officer.

DCA means Ronald Reagan Washington National Airport.

DASSP means the aircraft operator security program (DCA Access Standard Security Program) approved by TSA under this part for aircraft operations into and out of DCA.

FBO means a fixed base operator that has been approved by TSA under this part to serve as a last point of departure for flights into or out of DCA.

FBO Security Program means the security program approved by TSA under this part for FBOs to serve flights into or out of DCA.

Flightcrew member means a pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time.

Gateway airport means an airport that has been approved by TSA under this part as a last point of departure for flights into DCA under this part.

Passenger means any person on an aircraft other than a flightcrew member. A “passenger” includes an armed security officer authorized to carry a firearm in accordance with the rule.

§ 1562.23 Aircraft operator and passenger requirements.

(a) *General.* To operate into or out of DCA, an aircraft operator must:

- (1) Designate a security coordinator responsible for implementing the DASSP and other security requirements required under this section, and provide TSA with the security coordinator’s contact information and availability in accordance with the DASSP.
- (2) Adopt and carry out the DASSP.
- (3) Ensure that each crewmember of an aircraft operating into or out of

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DCA meets the requirements of paragraph (c) of this section.

(4) Apply for and receive a reservation from the Federal Aviation Administration and authorization from TSA for each flight into and out of DCA in accordance with paragraph (d) of this section.

(5) Comply with the operating requirements in paragraph (e) of this section for each flight into and out of DCA.

(6) Pay any costs and fees required under this part.

(7) Restrict the distribution, disclosure, and availability of sensitive security information (SSI), as defined in part 1520 of this chapter, to persons with a need to know, and refer all requests for SSI by other persons to TSA.

(8) Comply with any additional security procedures required by TSA through order, Security Directive, or other means.

(b) *Security coordinator.* Each security coordinator designated by an aircraft operator under paragraph (a) of this section:

(1) Must undergo a fingerprint-based criminal history records check that does not disclose that he or she has a disqualifying criminal offense as described in §1544.229(d) of this chapter. This standard is met if the security coordinator is in compliance with the fingerprint-based criminal history records check requirements of §§1542.209, 1544.229, or 1544.230 of this chapter with his or her current employer.

(2) Must submit to TSA his or her:

(i) Legal name, including first, middle, and last; any applicable suffix, and any other names used.

(ii) Current mailing address, including residential address if different than current mailing address.

(iii) Date and place of birth.

(iv) Social security number, (submission is voluntary, although recommended).

(v) Citizenship status and date of naturalization if the individual is a naturalized citizen of the United States.

(vi) Alien registration number, if applicable.

(3) Must successfully complete a TSA security threat assessment.

(4) May, if informed that a disqualifying offense has been disclosed, cor-

rect the record in accordance with the procedures set forth in paragraphs (h) and (i) of §1544.229 of this chapter regarding notification and correction of records.

(c) *Flightcrew member requirements.* Each flightcrew member of an aircraft, as defined in 49 CFR 1540.5, operating into or out of DCA:

(1) Must undergo a fingerprint-based criminal history records check that does not disclose that he or she has a disqualifying criminal offense as described in §1544.229(d) of this chapter. This standard is met if the flightcrew member is in compliance with the fingerprint-based criminal history records check requirements of §§1542.209, 1544.229, or 1544.230 of this chapter with his or her current employer.

(2) Must not have a record on file with the Federal Aviation Administration of a violation of—

(i) A prohibited area designated under 14 CFR part 73;

(ii) A flight restriction established under 14 CFR 91.141;

(iii) Special security instructions issued under 14 CFR 99.7;

(iv) A restricted area designated under 14 CFR part 73;

(v) Emergency air traffic rules issued under 14 CFR 91.139;

(vi) A temporary flight restriction designated under 14 CFR 91.137, 91.138, or 91.145; or

(vii) An area designated under 14 CFR 91.143.

(3) May, if informed that a disqualifying offense has been disclosed, correct the record in accordance with the procedures set forth in paragraphs (h) and (i) of §1544.229 of this chapter regarding notification and correction of records.

(d) *Flight authorization requirements.* To receive authorization to operate an aircraft into or out of DCA, an aircraft operator must follow the procedures in this paragraph.

(1) The aircraft operator must apply to the Federal Aviation Administration for a tentative reservation, in a form and manner approved by the Federal Aviation Administration.

(2) The aircraft operator must submit to TSA, in a form and manner approved by TSA, the following information at

least 24 hours prior to aircraft departure:

(i) For each passenger and crewmember on the aircraft:

(A) Legal name, including first, middle, and last; any applicable suffix, and any other names used.

(B) Current mailing address, including residential address if different than current mailing address.

(C) Date and place of birth.

(D) Social security number, (submission is voluntary, although recommended).

(E) Citizenship status and date of naturalization if the individual is a naturalized citizen of the United States.

(F) Alien registration number, if applicable.

(ii) The registration number of the aircraft.

(iii) The flight plan.

(iv) Any other information required by TSA.

(3) TSA will conduct a name-based security threat assessment for each passenger and crewmember. If TSA notifies the aircraft operator that a passenger or crewmember may pose a security threat, the aircraft operator must ensure that the passenger or crewmember does not board the aircraft before the aircraft departs out of DCA or out of a gateway airport to DCA.

(4) If TSA approves the flight, TSA will transmit such approval to the Federal Aviation Administration for assignment of a final reservation to operate into or out of DCA. Once the Federal Aviation Administration assigns the final reservation, TSA will notify the aircraft operator.

(5) TSA may, at its discretion, cancel any or all flight approvals at any time without prior notice to the aircraft operator.

(6) TSA may, at its discretion, permit a flight into or out of DCA to deviate from the requirements of this subpart, if TSA finds that such action would not be detrimental to transportation security or the safe operation of the aircraft.

(7) TSA may, at its discretion, require any flight into or out of DCA under this subpart to comply with additional security measures.

(e) *Operating requirements.* Each aircraft operator must:

(1) Ensure that each flight into DCA departs from a gateway airport and makes no intermediate stops before arrival at DCA.

(2) Ensure that each passenger and crewmember on an aircraft operating into or out of DCA has been screened in accordance with the DASSP prior to boarding the aircraft.

(3) Ensure that all accessible property and property in inaccessible cargo holds on an aircraft operating into or out of DCA has been screened in accordance with the DASSP prior to boarding the aircraft.

(4) Ensure that each aircraft operating into or out of DCA has been searched in accordance with the DASSP.

(5) Ensure that each passenger and crewmember on an aircraft operating into or out of DCA provides TSA with a valid government-issued picture identification in accordance with the DASSP.

(6) If the aircraft operating into or out of DCA is equipped with a cockpit door, ensure that the door is closed and locked at all times during the operation of the aircraft to or from DCA, unless Federal Aviation Administration regulations require the door to remain open.

(7) Ensure that each aircraft operating into or out of DCA has onboard at least one armed security officer who meets the requirements of §1562.29 of this chapter. This requirement does not apply if—

(i) There is a Federal Air Marshal onboard; or

(ii) The aircraft is being flown without passengers into DCA to pick up passengers, or out of DCA after deplaning all passengers.

(8) Ensure that an aircraft operating into or out of DCA has any Federal Air Marshal onboard, at no cost to the Federal Government, if TSA or the Federal Air Marshal Service so requires.

(9) Notify the National Capital Region Coordination Center prior to departure of the aircraft from DCA or a gateway airport.

(10) Ensure that each aircraft operating into or out of DCA operates under instrument flight rules.

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(11) Ensure that each passenger complies with any security measures mandated by TSA.

(12) Ensure that no prohibited items are onboard the aircraft.

(f) *Compliance.* (1) Each aircraft operator must:

(i) Permit TSA to conduct any inspections or tests, including copying records, to determine compliance with this part and the DASSP.

(ii) At the request of TSA, provide evidence of compliance with this part and the DASSP, including copies of records.

(2) Noncompliance with this part or the DASSP may result in the cancellation of an aircraft operator's flight approvals and other remedial or enforcement action, as appropriate.

(g) *Passenger requirements.* Each passenger, including each armed security officer, who boards or attempts to board an aircraft under this section must:

(1) Provide information to the aircraft operator as provided in this section.

(2) Provide to TSA upon request a valid government-issued photo identification.

(3) Comply with security measures as conveyed by the aircraft operator.

(4) Comply with all applicable regulations in this chapter, including §1540.107 regarding submission to screening and inspection, §1540.109 regarding prohibition against interference with screening personnel, and §1540.111 regarding carriage of weapons, explosives, and incendiaries by individuals.

§ 1562.25 Fixed base operator requirements.

(a) *Security program.* Each FBO must adopt and carry out an FBO Security Program.

(b) *Screening and other duties.* Each FBO must—

(1) Designate a security coordinator who meets the requirements in §1562.23(b) of this part and is responsible for implementing the FBO Security Program and other security requirements required under this section, and provide TSA with the security coordinator's contact information and

availability in accordance with the FBO Security Program.

(2) Support the screening of persons and property in accordance with the requirements of this subpart and the FBO Security Program.

(3) Support the search of aircraft in accordance with the requirements of this subpart and the FBO Security Program.

(4) Restrict the distribution, disclosure, and availability of sensitive security information (SSI), as defined in part 1520 of this chapter, to persons with a need to know, and refer all requests for SSI by other persons to TSA.

(5) Perform any other duties required under the FBO Security Program.

(c) *Compliance.* (1) Each FBO must:

(i) Permit TSA to conduct any inspections or tests, including copying records, to determine compliance with this part and the FBO Security Program.

(ii) At the request of TSA, provide evidence of compliance with this part and the FBO Security Program, including copies of records.

(2) Noncompliance with this part or the FBO Security Program may result in the cancellation of an aircraft operator's flight approvals and other remedial or enforcement action, as appropriate.

§ 1562.27 Costs.

(a) Each aircraft operator must pay a threat assessment fee of \$15 for each passenger and crewmember whose information the aircraft operator submits to TSA in accordance with §1562.23(d) of this part.

(b) Each aircraft operator must pay to TSA the costs associated with carrying out this subpart, as provided in its DASSP.

(c) All fees and reimbursement must be remitted to TSA in a form and manner approved by TSA.

(d) TSA will not issue any refunds, unless any fees or reimbursement funds were paid in error.

(e) If an aircraft operator does not remit to TSA the fees and reimbursement funds required under this section, TSA may decline to process any requests for authorization from the aircraft operator.

§ 1562.29 Armed security officer requirements.

(a) *General.* Unless otherwise authorized by TSA, each armed security officer must meet the following requirements:

(1) Be qualified to carry a firearm in accordance with paragraph (b) of this section.

(2) Successfully complete a TSA security threat assessment as described in paragraph (c) of this section.

(3) Meet such other requirements as TSA, in coordination with the Federal Air Marshal Service, may establish in the Armed Security Officer Security Program.

(4) Be authorized by TSA, in coordination with the Federal Air Marshal Service, under 49 U.S.C. 44903(d).

(b) *Qualifications.* To be qualified to carry a firearm under this subpart, an individual must meet the requirements in paragraph (1), (2), or (3) of this section, unless otherwise authorized by TSA, in coordination with the Federal Air Marshal Service.

(1) *Active law enforcement officers.* An active law enforcement officer must be an employee of a governmental agency who—

(i) Is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law;

(ii) Has statutory powers of arrest;

(iii) Is authorized by the agency to carry a firearm;

(iv) Is not the subject of any disciplinary action by the agency;

(v) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(vi) Is not prohibited by Federal law from receiving a firearm.

(2) *Retired law enforcement officers.* A retired law enforcement officer must be an individual who—

(i) Retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

(ii) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any vio-

lation of law, and had statutory powers of arrest;

(iii) Before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(iv) Has a non-forfeitable right to benefits under the retirement plan of the agency;

(v) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(vi) Is not prohibited by Federal law from receiving a firearm.

(3) *Other individuals.* Any other individual must—

(i) Meet qualifications established by TSA, in coordination with the Federal Air Marshal Service, in the Armed Security Officer Program;

(ii) Not be under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(iii) Not be prohibited by Federal law from receiving a firearm.

(c) *Threat assessments.* To be authorized under this section, each armed security officer:

(1) Must undergo a fingerprint-based criminal history records check that does not disclose that he or she has a criminal offense that would disqualify him or her from possessing a firearm under 18 U.S.C. 922(g).

(2) May, if informed that a disqualifying offense has been disclosed, correct the record in accordance with the procedures set forth in paragraphs (h) and (i) of §1544.229 of this chapter regarding notification and correction of records.

(3) Must submit to TSA his or her:

(i) Legal name, including first, middle, and last; any applicable suffix, and any other names used.

(ii) Current mailing address, including residential address if different than current mailing address.

(iii) Date and place of birth.

(iv) Social security number, (submission is voluntary, although recommended).

(v) Citizenship status and date of naturalization if the individual is a naturalized citizen of the United States.

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(vi) Alien registration number, if applicable.

(4) Must undergo a threat assessment by TSA prior to receiving authorization under this section and prior to boarding an aircraft operating into or out of DCA as provided in §1562.23(d)(1) of this part.

(d) *Training.* Each armed security officer onboard an aircraft operating into or out of DCA must:

(1) Have basic law enforcement training acceptable to TSA; and

(2) Successfully complete a TSA-approved training course, developed in coordination with the Federal Air Marshal Service, at the expense of the armed security officer.

(e) *Armed security officer program.* (1) Each armed security officer onboard an aircraft operating into or out of DCA must—

(i) Comply with the Armed Security Officer Program.

(ii) Restrict the distribution, disclosure, and availability of sensitive security information (SSI), as defined in part 1520 of this chapter, to persons with a need to know, and refer all requests for SSI by other persons to TSA.

(2) TSA and the Federal Air Marshal Service may conduct random inspections of armed security officers to ensure compliance with the Armed Security Officer Program.

(f) *Authority to carry firearm.* An armed security officer approved under this section is authorized—

(1) To carry a firearm in accordance with the Armed Security Officer Program on an aircraft operating under a DASSP into or out of DCA; and

(2) To transport a firearm in accordance with the Armed Security Officer

Program at any airport as needed to carry out duties under this subpart, including for travel to and from flights conducted under this subpart.

(g) *Use of force.* Each armed security officer authorized to carry a firearm under this section may use force, including deadly force, in accordance with the Armed Security Officer Program.

(h) *Use of alcohol or intoxicating or hallucinatory drugs or substances.* An armed security officer onboard an aircraft operating into or out of DCA may not consume alcohol or use an intoxicating or hallucinatory drug or substance during the flight and within 8 hours before boarding the aircraft.

(i) *Credential—(1) TSA credential.* An armed security officer under this section must carry a credential issued by TSA.

(2) *Inspection of credential.* An armed security officer must present the TSA-issued credential for inspection when requested by an authorized representative of TSA, the Federal Aviation Administration, the Federal Air Marshal Service, the National Transportation Safety Board, any Federal, State, or local law enforcement officer, or any authorized aircraft operator representative.

(3) *Preflight identification to crewmembers.* When carrying a firearm, an armed security officer must identify himself or herself to all crewmembers either personally or through another member of the crew before the flight.

(j) *Suspension or withdrawal of authorization.* At the discretion of TSA, authorization under this subpart and 49 U.S.C. 44903(d) is suspended or withdrawn upon notification by TSA.