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Part III

**Department of
Transportation**

Federal Aviation Administration

**Airplane and Airport Operator Security
Rules**

Federal Register

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107, 108, 121, 129, and 135

[Docket No. 19726; Amdt. Nos. 107-1, 108 (New), 121-167, 129-11, and 135-10]

Airplane and Airport Operator Security Rules

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: These amendments revise and consolidate security regulations for scheduled passenger and public charter operations in a new part of the Federal Aviation Regulations and extend those regulations to certain commuter and air taxi operations and small airplane operations conducted by U.S. and foreign air carriers. The consolidation facilitates public access to aviation security regulations. These changes provide an appropriate response to the current threat of criminal violence and air piracy against scheduled and public charter operations of U.S. air carriers, intrastate operators, and foreign air carriers.

EFFECTIVE DATE: April 1, 1981, or 60 days after a notice of approval of the recordkeeping and reporting requirements of new Part 108 by the Office of Management and Budget is published in the Federal Register, whichever is later.

FOR FURTHER INFORMATION CONTACT: H. E. Smith, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: On November 1, 1979, the FAA published Notice of Proposed Rule Making No. 79-17 (44 FR 63048), to extend the FAA security regulations applicable to scheduled passenger and public charter operations of U.S. and foreign air carriers and U.S. intrastate operators to certain air taxi operators and small airplane operations conducted by U.S. and foreign operators. It also proposed to simplify these regulations and consolidate them (for U.S. certificate holders) into a new part of the Federal Aviation Regulations to facilitate public access to security regulations.

All interested persons have been given an opportunity to participate in the making of this new Part 108 and the revisions to Parts 107, 121, 129, and 135. Due consideration has been given to all matters presented. In response to

comments received and after further study by the FAA, a number of changes are reflected in the rule as adopted.

Background

Since their inception in 1972, FAA security regulations have been designed to meet threats of hijacking and other crimes against the specific kinds of aircraft operations that have proven to be most attractive to the potential hijacker or saboteur. For the most part these operations have involved large transport type airplanes with scheduled departure times, and generally have been conducted by air carriers under Certificates of Public Convenience and Necessity (CPCN) and other limited economic authority issued by the Civil Aeronautics Board (CAB), as well as by certain wholly intrastate operators who are not air carriers. Operating rules for these operators are set out in Part 121 (14 CFR Part 121) and, for this reason, FAA security regulations were initially placed in that part.

Scheduled operations with large airplanes also have been conducted under § 135.2 of Part 135 (14 CFR Part 135). Security for these operations has been achieved through voluntary compliance with requirements similar to those in Part 121; however, the number of these operations is increasing.

Recently, and in particular since the passage of the Airline Deregulation Act of 1978 (Deregulation Act), the CAB has liberalized its policies and has granted broad authority to conduct scheduled operations with large aircraft. There now are numerous air carriers referred to in the Deregulation Act as "commuters" operating under Part 135 with authority to conduct operations similar to those that were previously conducted only by CPCN holders under Part 121. While CPCN holders are being allowed to discontinue service at different terminals, commuter air carriers are gaining these terminal and route authorizations. As a result, commuter air carriers are now using identical aircraft in scheduled and public charter operations formerly used only by CPCN holders. These airplanes are being operated over routes formerly served by CPCN holders, and the operations are conducted without being subject to full FAA security requirements.

The Deregulation Act carries with it a mandate that there be no diminution in safety in situations where commuter carriers provide substitute service on routes previously served by route carriers. Section 33(c)(3) of the Deregulation Act requires the FAA to "impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under Section 401 of this title."

The Proposal

To ensure consistent application of FAA's security rules and to achieve the necessary level of security, Notice 79-17 proposed security requirements based upon airplane complexity instead of CAB authorizations. The proposal called for multilevel security requirements to be equally applicable to all scheduled and public charter passenger operations conducted by air carriers and other FAA certificate holders. The FAA certificate holder would have been required to meet the full security requirements that have been set out in Part 121, including an approved screening system, for operations conducted in airplanes with a seating configuration of 20 or more passenger seats. For operations conducted in airplanes configured for less than 20 passenger seats, the certificate holder would have been subject only to minimal security requirements, including passenger and shipper identification, airplane security, and arrangements for law enforcement response when needed. The proposal also would have retained the existing requirement in Part 135 for crewmember antihijack training.

A number of changes have been made in the final rules, as discussed in this preamble. A table is provided for comparing the major provisions of the proposed rule and the final amendments. It is to assist in understanding the changes that have been made and should not be relied upon as a complete statement of the amendments.

Passenger seating configuration	Security requirements
Notice of Proposed Rulemaking	
1 to 19	Modified airplane and airport operator security program would have been adopted and implemented.
More than 19	Full airplane and airport operator security program would have been adopted and implemented, including screening of all passengers and law enforcement presence.

CS-79-2-R

Final Amendments

1 to 30.....	No security program is required unless passengers have uncontrolled access to a sterile area and then a screening system and law enforcement presence must be provided for those passengers.
31 to 60.....	Airplane and airport operator security program must be adopted; but screening and law enforcement presence must be implemented only when the FAA identifies a security threat or passengers have uncontrolled access to a sterile area.
More than 60.....	Full security program must be adopted and implemented, including screening of all passengers, law enforcement presence, and other significant safeguards.

Comments

Approximately 320 public comments were received in response to Notice 79-17. Nearly all of the commenters were against the proposal. The major objections were the cost of implementing the security requirements and the absence of any threat that justified extending screening and other security requirements to commuter operations. The commenters argued that the proposal would place an undue hardship on small communities and inhibit industry growth by causing commuters to avoid use of larger airplanes in order to gain advantage of the minimal security requirements for airplanes with less than 20 passenger seats.

Economic Study

In analyzing financial data provided by the commenters, the security costs per passenger enplanement were found to vary so much that the FAA decided that further economic study was necessary. A sample of typical airports was examined to determine what the actual costs would be to implement the proposed requirements. The results of this small sampling indicated that a comprehensive indepth cost study was needed.

This indepth study identified potentially affected airplane operators (25) and airports (20). The personnel of FAA regional security divisions completed structured interview forms for each potentially affected airline station (90) and for each airport. This information was collected and analyzed by the FAA's Office of Aviation Policy and Plans; and in many cases followup discussions were held with airline and airport personnel. The final regulatory evaluation that resulted from this study is available in the public docket for this rulemaking action.

The study indicates that the FAA estimated costs provided in Notice 79-17 are generally accurate when considered against the total projected enplanements. However, when viewed for a particular airport, or for a particular flight, costs might be unreasonably high because of the limited enplanements at that airport or for that flight.

Considerable reduction in the cost impact of this final rule has been effected through the changes in the proposal. While adoption of Notice 79-17 could have resulted in an estimated maximum annual operating cost of \$8.80 million and maximum capital investments of \$5.30 million (for airplane operators) and \$3.36 million (for airports), the maximum annual operating cost for the final rule will not exceed \$3.15 million and no capital investment will be necessary. These changes and their economic impact are discussed below.

Security Threat

The increased security threat to the commuter industry that was expected to result from implementation of the Deregulation Act has not materialized. Only one attempted hijacking of a commuter-operated airplane has occurred since the Deregulation Act was implemented. This attempt was thwarted by skillful FBI negotiations resulting in apprehension of the hijacker.

While the threat of air piracy and sabotage exists for all levels of air transportation, the historical record clearly establishes that the threat is very serious for some levels and less serious for others. Although all sizes of aircraft have been subjected to hijackings, the most severe threat has been against the larger, longer-range, jet airplanes in scheduled passenger operations. Typically these airplanes have more than 60 passenger seats, the smallest being the BAC-111, which may be configured for as few as 65 passenger seats, and the more commonly used DC-9, which is typically configured for approximately 90 passenger seats. The number of U.S. hijackings of such airplanes has continued to rise in relation to worldwide hijackings and, over the past 3 years, the U.S. air transportation system has experienced 40 hijackings of these air carrier airplanes.

Final Rule

Considering the economic burden that could be imposed on the small airport and airplane operators and the fact that the hijacking threat directed against

commuters has not significantly increased, it is not appropriate to fully implement the proposed rule changes at this time. This final rule requires implementing a full security program only for scheduled and public charter operations with airplanes having a passenger seating configuration of more than 60 seats and for operations providing deplaned passengers access to a sterile area at the next landing when the access is not controlled by another airplane operator's security program.

For operations with airplanes having a passenger seating configuration of more than 30 but less than 61 seats, a full security program need not be implemented. A full program for these operations will have to be implemented only if the FAA notifies the airplane operator that a security threat exists with respect to a particular operation or set of operations.

While the frequency and extent of these threats cannot be predicted, the FAA expects that this contingency seldom will be invoked. If it is, it will probably not involve all airplane operators or all points served by a single operator, nor would all precautions have to be taken in every contingency.

Antihijack security training will continue to be required for all crewmembers of FAA certificate holders operating under Part 121 or Part 135. In addition, throughout Part 108 and the changes to Part 107 and § 129.25 of this chapter, the term "airplane" instead of "aircraft" is used since threatened operations have only involved airplanes and no other aircraft.

Airplane Operator Security Requirements

None of the comments suggest, nor does FAA intend, lessening in any way the current security requirements for U.S. or foreign air carriers utilizing airplanes configured for more than 60 passenger seats or for U.S. airports presently served by these carriers on a regular basis. To ensure that passengers in scheduled or public charter operations with these airplanes benefit from a degree of security commensurate with the existing threat, the rule, as adopted, continues to require the implementation of a full security program for these operations.

For airplanes with a passenger seating configuration of less than 61 seats, the larger the airplane, the more attractive it can be expected to be for the potential hijacker. The great majority of airplanes currently used by commuters are of less than 31 seat configuration. However, a number of larger airplanes are now in

production or "on the drawing board" to serve the commuter airline market. The larger airplanes have a greater stage length and fuel capacity and carry many more passengers than those in current use. As a result, potential hijackers are more apt to see them as containing more hostages and having the range to serve their purposes.

Additionally, the FAA's economic study generally reflects significant increases in security costs per passenger as the airplane capacity decreases. The study indicates that for the lower half of the spectrum (the 1- through 30-seat airplanes), the economic hardship far outweighs the security benefit derived from even the minimal security requirements proposed in Notice 79-17 for airplanes configured for less than 20 seats.

For these reasons, the FAA has determined that airplanes with a seating configuration of 31 through 60 should be treated differently from those with 30 or fewer seats. Part 108, as adopted, requires FAA certificate holders conducting scheduled passenger and public charter operations in 31- through 60-seat airplanes to continue to conduct security training for crews, as presently required by §§ 121.417 and 135.331. Further, Part 108 and changes to Part 129 require the adoption of a comprehensive security program for operations with 31 through 60 seats comparable to that required for operations with airplanes having more than 60 seats. However, the operator will normally only have to implement for 31- through 60-seat airplanes those portions of the program that call for (1) having procedures for contacting the law enforcement agency identified by the airport operator and arranging for response to an incident when needed; and (2) advising appropriate employees, including crewmembers, of the procedures and instructing them when and how to use them. If the operator also uses airplanes above 60 seats, a full security program must be implemented for these operations.

Each operator of 31- through 60-seat airplanes must be prepared to implement its full security program for all or part of its operations at a particular station or systemwide upon notification by the FAA that a threat exists. Such a threat would exist, for example, where operations in this category have been subjected to hijacking and a specific threat has been made that more hijackings will be perpetrated. Such a threat might also exist where information has been received or developed concerning

airplanes in this category without a prior hijacking.

FAA certificate holders utilizing airplanes with a seating configuration of 1 through 30 seats, under the provisions of this rule, are only required to conduct antihijack crew training currently required by § 135.331. Because of the size, range, and public perception of the capacity and capability of these airplanes, this reactive security measure is considered adequate to meet the level of threat against this type operation.

Law Enforcement Support

When a U.S. or foreign air carrier is required to implement a security screening system at an airport governed by Part 107, the airport operator is required to provide law enforcement support for that screening. When a carrier conducts operations from an airport not governed by Part 107 of this chapter and is required to use a screening system, the carrier continues to be required to provide law enforcement officers to support the screening system.

Access to Sterile Areas

To protect the security of sterile areas, this amendment provides that operators of airplanes of any seating configuration may not discharge scheduled or public charter passengers into a sterile area unless: (1) the passengers and their accessible items are properly screened by the airplane operator; or (2) their access is controlled through surveillance and escort procedures or through the screening procedures of another operator.

Thus, unscreened passengers may have access to a sterile area where the discharging operator has made a prior arrangement with another FAA certificate holder or foreign air carrier, or in some cases the airport operator, having responsibility for the sterile area either for escort of the deplaning passengers into, through, and out of the sterile area or for the screening of those passengers before entry. Without these arrangements, operators not otherwise required by Part 108 or 129 to screen their passengers who wish to deplane their passengers in a particular operation into a sterile area at a particular airport must adopt and implement all the provisions of an appropriate security program with respect to that passenger operation. This requires that: (1) 100 percent screening of the passengers and their accessible items be completed before the last departure; (2) the airplane be protected; and (3) procedures be used to prevent or deter the introduction of explosives and

incendiaries into checked baggage and cargo for those flights.

This process currently is being followed by a number of air carriers operating under § 135.2. These air taxi and commuter operators, because of their desire to allow their passengers to have direct and uncontrolled access to a sterile area, have voluntarily elected to amend their operations specifications to adhere to the security requirements of § 121.538. With implementation of Part 108, this will no longer be necessary, and operators requiring direct uncontrolled access to sterile areas for their passengers will follow the security program procedures in § 108.25.

As a result of these amendments, certain FAA certificate holders that operate smaller airplanes and have been required to meet the security provisions of § 121.538 are no longer required to implement full security programs. Under § 108.5 these operators or other operators utilizing 1- through 60-seat airplanes may elect to continue to operate under a full security program in order to discharge passengers into a sterile area, or may elect to operate under a full or modified security program to meet passenger expectations, to fulfill company security policies, or for other reasons. However, when FAA approval is obtained for any security program, § 108.5 requires that the airplane operator carry out the provisions of that program. Operators utilizing smaller airplanes who use their own separate facilities at certain airports will now be able, at those airports, to operate without screening passengers or providing law enforcement presence. For these operators this rule may represent a considerable economic savings.

An Air Carrier Standard Security Program meeting the requirements of this rule is available for use by all certificate holders. This program, jointly developed by FAA and industry, has proven very effective in lessening the certificate holder's administrative burden. The FAA encourages adoption of the Air Carrier Standard Security Program to ensure uniform implementation and use of security procedures.

Airport Security Requirements

At U.S. airports regularly serving scheduled passenger operations of FAA certificate holders and foreign air carriers utilizing airplanes with more than 60 seats, this final rule requires the airport operator to adhere to the current provisions of Part 107.

At those airports regularly serving scheduled passenger operations utilizing 31- through 60-passenger-seat airplanes

and at which the airplane operator is not required to screen its passengers, the airport operator must only identify the law enforcement agency that will respond to the airplane operator's request for assistance. Responsibility for establishing and implementing the actual arrangements and for obtaining assistance in the case of an incident rests with the airplane operator.

For these operations, the airport operator is required to submit to the FAA for approval a security program that identifies: (1) the law enforcement support available to respond upon request of the airplane operator; (2) a description of the procedure to be used by the air carrier to summon support; (3) a description of the training the law enforcement officers have received; and (4) a description of the system of records of law enforcement actions taken in support of aviation security as called for by § 107.23.

If an airplane operator using airplanes with less than 61 passenger seats must adopt and carry out a full security program with a screening system, the airport operator must provide law enforcement support during all required passenger screening operations. The airport operator is required to submit to the FAA for approval a security program identifying the law enforcement support, the training received by law enforcement officers, and a description of the system for recording law enforcement actions taken in support of aviation security. These law enforcement support requirements are the only security requirements imposed on the airport operator for operations with airplanes configured for less than 61 passenger seats where screening is performed under a required security program.

Economic evaluation

Assessment of the economic impact of these amendments indicates that certain airplane and airport operators not previously required to have a security program may incur some costs in connection with scheduled and public charter passenger operations with airplanes having a passenger seating configuration of 31 through 60 passenger seats. Some additional costs will occur for these operators if they must implement contingency procedures included in security programs because of a threat condition. Most, if not all, of the costs of meeting contingencies would be associated with personnel and would not involve investments in X-ray machines, metal detectors, and alterations to airport terminals as might have been the case if the proposal in Notice 79-17 had been adopted. If a

threat situation occurs, the FAA will work closely with the affected parties to ensure adequate, efficient, and cost-effective implementation of contingency procedures.

The only other new cost resulting from this rule may occur when some operators of airplanes with less than 61 passenger seats desire to discharge passengers directly into a sterile area. No additional cost will occur to the many operators already voluntarily providing security for these operations through amendments to their operations specifications. Airplane operators that do not now provide this security, and who desire access to a sterile area, will incur new costs for providing the necessary security safeguards.

The economic assessment indicates that the final rule may have an impact on 11 Part 135 operators of airplanes seating 31 through 60 passengers at as many as 39 stations. Virtually all of this cost impact would occur if contingency procedures are implemented. Based on the FAA's analysis of the current threat, coupled with the historical record, airplane and airport operators will rarely, if ever, be required to take these heightened precautions and a threat necessitating such action would probably never involve all 11 carriers or 39 stations at a time.

However, in the unlikely event that all operators of 31- through 60-seat airplanes are required to implement contingency procedures at all stations for an entire year because of the greatest hijacking threat, the annual cost could be as high as \$3.15 million. Whatever costs occur may be recovered through fare or temporary subsidy increases.

This \$3.15 million maximum cost contrasts with the possible costs that would have resulted from the proposed rule. The FAA's evaluation indicates that it could have resulted in as much as \$8.8 million in new annual operating costs for the affected airplane operators, \$5.3 million in investments for security equipment and construction by airplane operators and \$360,000 in airport improvements.

Because these amendments impose uniform security requirements on the basis of airplane size and the protection of sterile areas instead of the kind of FAA and CAB operating authority, some Part 121 operators will have an opportunity to reduce security costs at some stations. As is the current case, all Part 135 operators now screening voluntarily under an operations specifications amendment can elect to discontinue screening under this rule if they choose not to continue to have access to a sterile area. While the FAA

cannot determine the exact amount of cost savings, it estimates the maximum possible annual operating cost savings at \$13,720,526.

Adoption of the Amendment

Accordingly, Parts 107, 121, 129, and 135 are amended and new Part 108 is added as follows, effective April 1, 1981, or 60 days after a notice of approval of the recordkeeping and reporting requirements of new Part 108 by the Office of Management and Budget is published in the Federal Register, whichever is later:

PART 107—AIRPORT SECURITY

1. By revising paragraphs (a)(1), (a)(2), (b)(1), and (b)(5) of § 107.1 to read as follows:

§ 107.1 Applicability and definitions.

(a) This part prescribes aviation security rules governing—

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

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

(b) For purposes of this part—

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

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

2. By amending § 107.3 by revising paragraphs (a)(3), introductory paragraph of (b), and (c), and adding new paragraphs (f) and (g) to read as follows:

§ 107.3 Security program.

(a) * * *

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

(b) For each airport subject to this part regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in § 108.3 of this section of this chapter) of more than

60 seats, the security program required by paragraph (a) of this section must include at least the following:

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

(f) For each airport subject to this part regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in § 108.3 of this chapter) of more than 30 but less than 61 seats, the security program required by paragraph (a) of this section must include at least the following:

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

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

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

(g) For each airport subject to this part where the certificate holder or foreign air carrier is required to conduct passenger screening under a security program required by § 108.5(a)(2) or (3) or § 129.25(b)(2) or (3) of this chapter, or conducts screening under a security program being carried out pursuant to § 108.5(b), as appropriate, the security program required by paragraph (a) of this section must include at least the following: (1) A description of the law enforcement support necessary to comply with § 107.15.

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

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

§ 107.7 [Amended]

3. By amending § 107.7(a)(3) by inserting the phrase ", (f)(1), or (g)(1)" after the phrase "§ 107.3(b)(7)."

§ 107.13 [Amended]

4. By amending § 107.13(a) by deleting the words "airport operator" in the introductory phrase and substituting the words "operator of an airport serving scheduled passenger operations where the certificate holder or foreign air carrier is required to conduct passenger screening under a program required by

§ 108.5(a)(1) or § 129.25(b)(1) of this chapter as appropriate."

5. By revising § 107.15 to read as follows:

§ 107.15 Law enforcement support.

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

(1) Its security program; and

(2) Each passenger screening system required by Part 108 or § 129.25 of this chapter.

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

§ 107.17 [Amended]

6. By amending § 107.17(a) by inserting the words ", or arrange for response by," after the word "use" in the introductory phrase.

7. By adding to Subchapter F of 14 CFR Chapter 1 a new Part 108 to read as follows:

PART 108—AIRPLANE OPERATOR SECURITY

Sec.

108.1 Applicability.

108.3 Definitions.

108.5 Security program: adoption and implementation.

108.7 Security program: form, content, and availability.

108.9 Screening of passengers and property.

108.11 Carriage of weapons.

108.13 Security of airplanes and facilities.

108.15 Law enforcement officers.

108.17 Use of X-ray systems.

108.19 Bomb or air piracy threats.

108.21 Carriage of passengers under the control of armed law enforcement escorts.

108.23 Crewmember emergency training: hijacking and other unusual situations.

108.25 Approval of security programs and amendments.

Authority: Secs. 313, 315, 316, 317, 601 and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1357, 1358, 1421 and 1424); sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c)).

§ 108.1 Applicability.

This part prescribes aviation security rules governing the operations of holders of FAA air carrier operating certificates or operating certificates engaging in scheduled passenger

operations or public charter passenger operations. This part does not apply to helicopter operations or to all-cargo operations.

§ 108.3 Definitions.

The following are definitions of terms used in this part: (a) "Certificate holder" means a person holding an FAA operating certificate when that person engages in scheduled passenger or public charter passenger operations or both.

(b) "Passenger seating configuration" means the total number of seats for which the aircraft is type certificated that can be made available for passenger use aboard a flight and includes that seat in certain airplanes which may be used by a representative of the Administrator to conduct flight checks but is available for revenue purposes on other occasions.

(c) "Private charter" means any charter for which the charterer engages the total capacity of an airplane for the carriage of: (1) Passengers in civil or military air movements conducted under contract with the Government of the United States or the Government of a foreign country; or

(2) Passengers invited by the charterer, the cost of which is borne entirely by the charterer and not directly or indirectly by the individual passengers.

(d) "Public charter" means any charter that is not a "private charter."

(e) "Scheduled passenger operations" means holding out to the public of air transportation service for passengers from identified air terminals at a set time announced by timetable or schedule published in a newspaper, magazine, or other advertising medium.

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

§ 108.5 Security program: adoption and implementation.

(a) Each certificate holder shall adopt and carry out a security program that meets the requirements of § 108.7 for each of the following scheduled or public charter passenger operations: (1) Each operation with an airplane having a passenger seating configuration of more than 60 seats.

(2) Each operation that provides deplaned passengers access, that is not otherwise controlled by a certificate holder using an approved security program or a foreign air carrier using a security program required by § 129.25, to a sterile area.

(3) Each operation with an airplane having a passenger seating configuration of more than 30 but less than 61 seats; except that those parts of the program effecting compliance with the requirements listed in § 108.7(b) (1), (2), and (4) need only be implemented when the Director of Civil Aviation Security or a designate of the Director notifies the certificate holder in writing that a security threat exists with respect to the operation.

(b) Each certificate holder that has obtained FAA approval for a security program for operations not listed in paragraph (a) of this section shall carry out the provisions of that program

§ 108.7 Security program: form, content, and availability.

(a) Each security program required by § 108.5 shall—

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

(2) Be in writing and signed by the certificate holder or any person delegated authority in this matter;

(3) Include the items listed in paragraph (b) of this section, as required by § 108.5; and

(4) Be approved by the Administrator.

(b) Each security program required by § 108.5 must include the following, as required by that section: (1) The procedures and a description of the facilities and equipment used to perform the screening functions specified in § 108.9.

(2) The procedures and a description of the facilities and equipment used to perform the airplane and facilities control functions specified in § 108.13.

(3) The procedures used to comply with the applicable requirements of § 108.15 regarding law enforcement officers.

(4) The procedures used to comply with the requirements of § 108.17 regarding the use of X-ray systems.

(5) The procedures used to comply with the requirements of § 108.19 regarding bomb and air piracy threats.

(c) Each certificate holder having an approved security program shall—

(1) Maintain at least one complete copy of the approved security program at its principal business office;

(2) Maintain a complete copy or the pertinent portions of its approved security program or appropriate implementing instructions at each airport where security screening is being conducted;

(3) Make these documents available for inspection upon request of any Civil Aviation Security Inspector;

(4) Restrict the availability of information contained in the security program to those persons with an operational need-to-know; and

(5) Refer requests for such information by other persons to the Director of Civil Aviation Security of the FAA.

108.9 Screening of passengers and property.

(a) Each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program to prevent or deter the carriage aboard airplanes of any explosive, incendiary device, or a deadly or dangerous weapon on or about each individual's person or accessible property, and the carriage of any explosive or incendiary device in checked baggage.

(b) Each certificate holder required to conduct screening under a security program shall refuse to transport—

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

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

108.11 Carriage of weapons.

(a) No certificate holder required to conduct screening under a security program may permit any person to have, nor may any person have, on or about his or her person or property, a deadly or dangerous weapon, either concealed or unconcealed, accessible to him or her while aboard an airplane for which screening is required unless: (1) The person having the weapon is—

(i) An official or employee of the United States, a State or political subdivision of a State, or of a municipality who is authorized by his or her agency to have the weapon; or

(ii) Authorized to have the weapon by the certificate holder and the Administrator and has successfully completed a course of training in the use of firearms acceptable to the Administrator.

(2) The person having the weapon needs to have the weapon accessible in connection with the performance of his or her duty from the time he or she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned after deplaning.

(3) The certificate holder is notified—

(i) Of the flight on which the armed person intends to have the weapon accessible to him or her at least 1 hour, or in an emergency as soon as practicable, before departure; and

(ii) When the armed person is other than an employee or official of the United States, that there is a need for the weapon to be accessible to the armed person in connection with the performance of that person's duty from the time he or she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned to him or her after deplaning.

(4) The armed person identifies himself or herself to the certificate holder by presenting credentials that include his or her clear, full-face picture, his or her signature, and the signature of the authorizing official of his or her service or the official seal of his or her service. A badge, shield, or similar device may not be used as the sole means of identification.

(5) The certificate holder—

(i) Ensures that the armed person is familiar with its procedures for carrying a deadly or dangerous weapon aboard its airplane before the time the person boards the airplane;

(ii) Ensures that the identity of the armed person is known to each law enforcement officer and each employee of the certificate holder responsible for security during the boarding of the airplane; and

(iii) Notifies the pilot in command, other appropriate crewmembers, and any other person authorized to have a weapon accessible to him or her aboard the airplane of the location of each authorized armed person aboard the airplane.

(b) No person may, while on board an airplane operated by a certificate holder for which screening is not conducted, carry on or about that person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph does not apply to—

(1) Officials or employees of a municipality or a State, or of the United States, who are authorized to carry arms; or

(2) Crewmembers and other persons authorized by the certificate holder to carry arms.

(c) No certificate holder may knowingly permit any person to transport, nor may any person transport or tender for transport, any explosive, incendiary, device or a loaded firearm in checked baggage aboard an airplane. For the purpose of this section, a loaded firearm means a firearm which has a live round of ammunition, cartridge, detonator, or powder in the chamber or

in a clip, magazine, or cylinder inserted in it.

(d) No certificate holder may knowingly permit any person to transport, nor may any person transport or tender for transport, any unloaded firearm in checked baggage aboard an airplane unless—

(1) The passenger declares to the certificate holder, either orally or in writing before checking the baggage, that any firearm carried in the baggage is unloaded;

(2) The firearm is carried in a container the certificate holder considers appropriate for air transportation;

(3) When the firearm is other than a shotgun, rifle, or other firearm normally fired from the shoulder position, the baggage in which it is carried is locked, and only the passenger checking the baggage retains the key or combination; and

(4) The baggage containing the firearm is carried in an area, other than the flightcrew compartment, that is inaccessible to passengers.

(e) No certificate holder may serve any alcoholic beverage to a person having a deadly or dangerous weapon accessible to him or her nor may such person drink any alcoholic beverage while aboard an airplane operated by the certificate holder.

(f) Paragraphs (a), (b), and (d) of this section do not apply to the carriage of firearms aboard air carrier flights conducted for the military forces of the Government of the United States when the total cabin load of the airplane is under exclusive use by those military forces if the following conditions are met:

(1) No firearm is loaded and all bolts to such firearms are locked in the open position; and

(2) The certificate holder is notified by the unit commander or officer in charge of the flight before boarding that weapons will be carried aboard the aircraft.

§ 108.13 Security of airplanes and facilities.

Each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program to perform the following control functions with respect to each airplane operation for which screening is required:

(a) Prohibit unauthorized access to the airplane.

(b) Ensure that baggage carried in the airplane is checked in by a responsible agent and that identification is obtained

from persons, other than known shippers, shipping goods or cargo aboard the airplane.

(c) Ensure that cargo and checked baggage carried aboard the airplane is handled in a manner that prohibits unauthorized access.

(d) Conduct a security inspection of the airplane before placing it in service and after it has been left unattended.

§ 108.15 Law enforcement officers.

(a) At airports within the United States not governed by Part 107 of this chapter, each certificate holder engaging in scheduled passenger or public charter passenger operations shall—

(1) If security screening is required for a public charter operation by § 108.5(a), or for a scheduled passenger operation by § 108.5(b) provide for law enforcement officers meeting the qualifications and standards, and in the number and manner specified, in Part 107; and

(2) When using airplanes with a passenger seating configuration of 31 through 60 seats in a public charter operation for which screening is not required, arrange for law enforcement officers meeting the qualifications and standards specified in Part 107 to be available to respond to an incident, and provide to its employees, including crewmembers, as appropriate, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(b) At airports governed by Part 107 of this chapter, each certificate holder engaging in scheduled or public charter passenger operations, when using airplanes with a passenger seating configuration of 31 through 60 seats for which screening is not required, shall arrange for law enforcement officers meeting the qualifications and standards specified in Part 107 to be available to respond to an incident and provide its employees, including crewmembers, as appropriate, current information with respect to procedures for obtaining this law enforcement assistance at that airport.

§ 108.17 Use of X-ray systems.

(a) No certificate holder may use an X-ray system within the United States to inspect carry-on articles unless specifically authorized under a security program required by § 108.5 of this part or use such a system contrary to its approved security program. The Administrator authorizes certificate holders to use X-ray systems for inspecting carry-on articles, under an approved security program, if the certificate holder shows that—

(1) For a system manufactured before April 25, 1974, it meets either the guidelines issued by the Food and Drug Administration (FDA), Department of Health, Education, and Welfare (HEW) and published in the Federal Register (38 FR 21442, August 8, 1973); or the performance standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in 21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(2) For a system manufactured after April 24, 1974, it meets the standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in 21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(3) 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 and other dangerous articles;

(4) Procedures are established to ensure that each operator of the system is provided with a personal dosimeter (such as a film badge or thermo luminescent dosimeter). Each dosimeter used will be evaluated at the end of each calendar month, and records of operator duty time and the results of dosimeter evaluations will be maintained by the certificate holder; and

(5) The system is capable of distinguishing an insulated 24-gauge, solid copper wire.

(b) No certificate holder may use an X-ray system within the United States unless within the preceding 12 calendar months a radiation survey has been conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the FDA in the Federal Register of August 8, 1973 (38 FR 21442).

(c) No certificate holder may use an X-ray system after the system is initially installed or after it has been moved from one location to another, unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the FDA in the Federal Register of August 8, 1973 (38 FR 21442) except that a radiation survey is not required for an X-ray system that is moved to another location if the certificate holder shows that the system is so designed that it can be moved without altering its performance.

(d) No certificate holder may use an X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless that

Administration has advised the FAA that the defect or failure to comply does not create a significant risk or injury, including genetic injury, to any person.

(e) No certificate holder may use an X-ray system to inspect carry-on baggage or items unless a sign is posted in a conspicuous place which notifies passengers that such items are being inspected by an X-ray system and advises them to remove all X-ray and scientific film from the carry-on articles before inspection. This sign shall also advise passengers that they may request that a physical inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any carry-on article to more than one milliroentgen during the inspection, the certificate holder shall post a sign which advises passengers to remove film of all kinds from their carry-on articles before inspection. If requested by passengers, their photographic equipment and film packages shall be physically inspected without exposure to an X-ray system.

(f) Each certificate holder shall maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and shall make it available for inspection upon request by the Administrator at each of the following locations:

- (1) The certificate holder's principal business office; and
- (2) The place where the X-ray system is in operation.

§ 108.19 Bomb or air piracy threats.

(a) Upon receipt of a bomb threat against a specific airplane, each certificate holder shall attempt to determine whether or not any explosive or incendiary device is aboard the airplane involved by doing the following:

- (1) Conducting a security inspection on the ground before the next flight or, if the airplane is in flight, immediately after its next landing.
- (2) If the airplane is being operated on the ground, advising the pilot in command to immediately submit the airplane for a security inspection.
- (3) If the airplane is in flight, immediately advising the pilot in command of all pertinent information available so that necessary emergency action can be taken.

(b) Immediately upon receiving information that an act or suspected act of air piracy has been committed, the certificate holder shall notify the Administrator. If the airplane is in airspace under other than United States jurisdiction, the certificate holder shall also notify the appropriate authorities of

the State in whose territory the airplane is located and, if the airplane is in flight, the appropriate authorities of the State in whose territory the airplane is to land. Notification of the appropriate air traffic controlling authority is sufficient action to meet this requirement.

§ 108.21 Carriage of passengers under the control of armed law enforcement escorts.

(a) Except as provided in paragraph (e) of this section, no certificate holder required to conduct screening under a security program may carry a passenger in the custody of an armed law enforcement escort aboard an airplane for which screening is required unless—

(1) The armed law enforcement escort is an official or employee of the United States, of a State or political subdivision of a State, or a municipality who is required by appropriate authority to maintain custody and control over an individual aboard an airplane;

(2) The certificate holder is notified by the responsible government entity at least 1 hour, or in case of emergency as soon as possible, before departure—

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

(ii) Whether or not the passenger is considered to be in a maximum risk category;

(3) If the passenger is considered to be in a maximum risk category, that the passenger is under the control of at least two armed law enforcement escorts and no other passengers are under the control of those two law enforcement escorts;

(4) No more than one passenger who the certificate holder has been notified is in a maximum risk category is carried on the airplane;

(5) If the passenger is not considered to be in a maximum risk category, the passenger is under the control of at least one armed law enforcement escort, and no more than two of these persons are carried under the control of any one law enforcement escort;

(6) The certificate holder is assured, prior to departure, by each law enforcement escort that—

(i) The officer is equipped with adequate restraining devices to be used in the event restraint of any passenger under the control of the escort becomes necessary; and

(ii) Each passenger under the control of the escort has been searched and does not have on or about his or her person or property anything that can be used as a deadly or dangerous weapon;

(7) Each passenger under the control of a law enforcement escort is—

(i) Boarded before any other passengers when boarding at the airport

where the flight originates and deplaned at the destination after all other deplaning passengers have deplaned;

(ii) Seated in the rear-most passenger seat when boarding at the airport where the flight originates; and

(iii) Seated in a seat that is neither located in any lounge area nor located next to or directly across from any exit; and

(8) A law enforcement escort having control of a passenger is seated between the passenger and any aisle.

(b) No certificate holder operating an airplane under paragraph (a) of this section may—

(1) Serve food beverage or provide metal eating utensils to a passenger under the control of a law enforcement escort while aboard the airplane unless authorized to do so by the law enforcement escort.

(2) Serve a law enforcement escort or the passenger under the control of the escort any alcoholic beverages while aboard the airplane.

(c) Each law enforcement escort carried under the provisions of paragraph (a) of this section shall, at all times, accompany the passenger under the control of the escort and keep the passenger under surveillance while aboard the airplane.

(d) No law enforcement escort carried under paragraph (b) of this section or any passenger under the control of the escort may drink alcoholic beverages while aboard the airplane.

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

§ 108.23 Crewmember emergency training: hijacking and other unusual situations.

Each certificate holder shall provide each appropriate crewmember hijack emergency training as required by § 121.417(c)(1)(v) or § 135.331(b)(2)(v).

§ 108.25 Approval of security programs and amendments.

(a) Unless otherwise authorized by the Administrator, each certificate holder required to have a security program for a passenger operation shall submit its proposed security program to the Administrator for approval at least 90 days before the date of the intended passenger operations. Within 30 days after receiving the program, the Administrator either approves the program or notifies the certificate holder to modify the program to comply with the applicable requirements of this part. The certificate holder may petition the Administrator to reconsider the notice to modify within 30 days after receiving the notice, and, except in the case of an

emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

(b) The Administrator may amend an approved security program if it is determined that safety and the public interest require the amendment, as follows:

(1) The Administrator notifies the certificate holder, in writing, of the proposed amendment, fixing a period of not less than 30 days within which it may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the Administrator notifies the certificate holder of any amendment adopted or rescinds the notice. The amendment becomes effective not less than 30 days after the certificate holder receives the notice, unless the certificate holder petitions the Administrator to reconsider the amendment, in which case the effective date is stayed by the Administrator.

(3) If the Administrator finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes the procedure in this paragraph impracticable or contrary to the public interest, the Administrator may issue an amendment, effective without stay, on the date the certificate holder receives notice of it. In such a case, the Administrator incorporates the findings, and a brief statement of the reasons for it, in the notice of the amendment to be adopted.

(c) A certificate holder may submit a request to the Administrator to amend its program. The application must be filed with the Administrator at least 30 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the Administrator. Within 15 days after receiving a proposed amendment, the Administrator either approves or denies the request. Within 30 days after receiving from the Administrator a notice of refusal to approve the application for amendment, the applicant may petition the Administrator to reconsider the refusal to amend.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

8. By revising § 121.538 to read as follows:

§ 121.538 Airplane security.

Certificate holders conducting operations under this part shall comply with the applicable security requirements in Part 108 of this chapter.

§ 121.538a [Removed]

§ 121.584 [Removed]

§ 121.585 [Removed]

9. By revoking and removing §§ 121.538a, 121.584, and 121.585.

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

10. By revising § 129.25 to read as follows:

§ 129.25 Airplane security.

(a) The following are definitions of terms used in this section:

(1) "Approved security program" means a security program required by Part 108 of this title approved by the Administrator.

(2) "Certificate holder" means a person holding an FAA air carrier operating certificate or operating certificate when that person engages in scheduled passenger or public charter operations, or both.

(3) "Passenger seating configuration" means the total number of seats for which the aircraft is type certificated that can be made available for passenger use aboard a flight and includes that seat in certain airplanes which may be used by a representative of the Administrator to conduct flight checks but is available for revenue purposes on other occasions.

(4) "Private charter" means any charter for which the charterer engages the total capacity of an airplane for the carriage only of:

(i) Passengers in civil or military air movements conducted under contract with the Government of the United States or the Government of a foreign country; or

(ii) Passengers invited by the charterer, the cost of which is borne entirely by the charterer and not directly or indirectly by the individual passengers.

(5) "Public charter" means any charter that is not a "private charter."

(6) "Scheduled passenger operations" means holding out to the public of air transportation service for passengers from identified air terminals at a set time announced by timetable or schedule published in a newspaper, magazine, or other advertising medium.

(7) "Sterile area" means an area to which access is controlled by the inspection of persons and property in accordance with an approved security

program or a security program used in accordance with § 129.25.

(b) Each foreign air carrier landing or taking off in the United States shall adopt and use a security program; for each scheduled and public charter passenger operation, that meets the requirements of—

(1) Paragraph (c) of this section for each operation with an airplane having a passenger seating configuration of more than 60 seats;

(2) Paragraph (c) of this section for each operation that will provide deplaned passengers access, that is not controlled by a certificate holder using an approved security program or a foreign air carrier using a security program required by this section, to a sterile area;

(3) Paragraph (c) of this section for each operation with an airplane having a passenger seating configuration of more than 30 seats but less than 61 seats for which the FAA has notified the foreign air carrier that a threat exists; and

(4) Paragraph (c) of this section for each operation with an airplane having a passenger seating configuration of more than 30 seats but less than 61 seats, when the Director of Civil Aviation Security or a designate of the Director has not notified the foreign air carrier in writing that a threat exists with respect to that operation.

(c) Each security program required by paragraph (b) (1), (2), or (3) of this section shall be designed to—

(1) Prevent or deter the carriage aboard airplanes of any explosive, incendiary device or a deadly or dangerous weapon on or about each individual's person or accessible property, except as provided in § 129.27 of this part, through screening by weapon-detecting procedures or facilities;

(2) Prohibit unauthorized access to airplanes;

(3) Ensure that 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.

(d) Each security program required by paragraph (b)(4) of this section shall include the procedures used to comply with the applicable requirements of paragraphs (h)(2) and (i) of this section regarding law enforcement officers.

(e) Each foreign air carrier required to use a security program by paragraph (b) of this section shall, upon request of the Administrator, and in accordance with applicable law, provide information

regarding the implementation and operation of its security program.

(f) No foreign air carrier may land or take off an airplane in the United States, in passenger operations, after receiving a bomb or air piracy threat against that airplane, unless the following actions are taken:

(1) 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.

(2) 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.

(3) If information is received of a bomb or air piracy threat against an airplane engaged in an operation specified in paragraph (f)(1) or (f)(2) 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.

(g) Each foreign air carrier conducting an operation for which a security program is required by paragraph (b)(1), (2), or (3) of this section shall refuse to transport—

(1) Any person who does not consent to a search of his or her person in accordance with the security program; and

(2) Any property of any person who does not consent to a search or inspection of that property in accordance with the security program.

(h) At airports within the United States not governed by Part 107 of this chapter, each foreign air carrier engaging in public charter passenger operations shall—

(1) When using a screening system required by paragraph (b) of this section, provide for law enforcement officers meeting the qualifications and standards, and in the number and manner, specified in Part 107; and

(2) When using an airplane having a passenger seating configuration of more than 30 but less than 61 seats for which a screening system is not required by paragraph (b) of this section, arrange for law enforcement officers meeting the

qualifications and standards specified in Part 107 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.

(i) At airports governed by Part 107 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 more than 30 but less than 61 seats for which a screening system is not required by paragraph (b) of this section shall arrange for law enforcement officers meeting the qualifications and standards specified in Part 107 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.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

11. By adding a new § 135.125 to read as follows:

§ 135.125 Airplane security.

Certificate holders conducting operations under this part shall comply with the applicable security requirements in Part 108 of this chapter.

(Secs. 313, 315, 316, 317, 601–610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1357, 1358, 1421–1430); Sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c)))

This rule is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

Issued in Washington, D.C., on January 12, 1981.

Langhorne Bond,
Administrator.

[FR Doc. 81-1403 Filed 1-14-81; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 129

[Docket No. 19726; Amdt. Nos. 107-1, 108 (New), 121-167, 129-11, and 135-10]

Airplane and Airport Operator Security Rules***Correction***

In FR Doc. 81-1403, published in the issue of Thursday, January 15, 1981, at page 3782 make the following correction to § 129.25(b)(4).

On page 3790, third column, fifth full paragraph from the top of the page, in the first line of paragraph (4), the reference now reading "Paragraph (c) of this section * * *" should read "Paragraph (d) of this section * * *".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107, 108, 121, 129, and 135

[Docket No. 19726; Reference Amendment Nos. 107-1, 108 (New), 121-167, 129-11, and 135-10]

Airplane and Airport Operator Security Rules; Effective Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Office of Management and Budget (OMB) approval and correction of amendment.

SUMMARY: This document prescribes the effective date for a new part of the Federal Aviation Regulations that consolidates security regulations for scheduled passenger and public charter operations and extends those regulations to certain commuter and air taxi operations and small airplane operations conducted by U.S. and foreign air carriers. At the time this new part was adopted, its reporting and recordkeeping requirements had not been approved by OMB, and the part could not be made effective. That approval process has now been completed.

This document also corrects a reference in the words of issuance of Amendment 107-1.

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph A. Sirkis, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC, 20591, telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: On January 12, 1981, the FAA adopted amendments that added a new Part 108, Airplane Operator Security (46 FR 3782; January 15, 1981), and amended other associated security regulations. The new part revises and consolidates aviation security regulations for scheduled passenger and public charter operations, and extends those regulations to certain commuter and air taxi operations and small airplane operations conducted by U.S. and foreign air carriers. The consolidation facilitates public access to aviation security regulations. The changes provide an appropriate response to the current threat of criminal violence and air piracy against

scheduled and public charter operations of U.S. air carriers, intrastate operators, and foreign air carriers.

Because new Part 108 contains reporting and recordkeeping requirements for which OMB approval is required, the effectivity of the new part was delayed until April 1, 1981, or 60 days after OMB approval, whichever would be later. On April 29, 1981, OMB approved these requirements. A copy of the approval may be examined at the Federal Aviation Administration, Office of the Chief Counsel, Rules Docket No. 19726, 800 Independence Avenue, SW, Washington, DC 20591.

Accordingly, this notice prescribes the necessary effective date and, except as noted, provides the 60-day notice referred to at the time these amendments were adopted.

In order to relieve certain airplane operators immediately of an unnecessary financial burden, this notice permits compliance without delay with new Part 108. When issuing Part 108, the FAA considered the economic burden that could be imposed on the small airplane operators and the fact that the hijacking threat directed against commuters has not significantly increased. It was determined that the implementation of a full security program should only be required for scheduled and public charter operations with airplanes having a passenger-seating configuration of more than 60 seats and for operations providing deplaned passengers access to a sterile area at the next landing when the access is not controlled by another airplane operator's security program. Accordingly, Part 108 provides that for operations with airplanes having a passenger-seating configuration of more than 30 but fewer than 61 seats a full security program need not be implemented.

For Part 108 to be effective immediately for any operator, the operator need only advise the Director of Civil Aviation Security of its intention to comply with the part.

Correction

In connection with new Part 108, the airport operator security rules in Part 107 were also amended (Amendment 107-1) to relate the airport operator's responsibilities, including law enforcement support, to the level of security required for airplane operators using the airport.

Section 107.7 requires the airport operator to notify the FAA, and

appropriately amend its security program, whenever certain changed security conditions occur. Specifically, § 107.7(a)(4) provides that this action must be taken when the law enforcement support, as described in the airport operator's security program, is not adequate to comply with § 107.15. Amendment 107-1 was intended to add references in § 107.7(a)(4) to new security program requirements. However, because that provision is misnumbered in the current bound version of the Code of Federal Regulations (14 CFR 107.7), the amending language erroneously referred to it as § 107.7(a)(3). This amendment corrects the amending language to refer to § 107.7(a)(4). The Code of Federal Regulations will be corrected when it is next published in bound form.

Effective Date and Correction

Accordingly, Amendments No. 107-1, 108 (New), 121-167, 129-11, and 135-10 will be effective September 11, 1981, or, for a certificate holder to which new Part 108 would apply, on the date that the certificate holder notifies the Director of Civil Aviation Security of its intention to comply with the part, whichever date is earlier. The words of issuance of Amendment 107-1 are corrected to amend § 107.7(a)(4), instead of § 107.7(a)(3), by inserting the phrase ", (f)(1), or (g)(1)" after the phrase "§ 107.3(b)(7)".

(Secs. 313, 315, 316, 317, 601-610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1357, 1358, 1421-1430); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document pertains to a rulemaking action which is not a major regulation under Executive Order 12291; that it is not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and that, under the criteria of the Regulatory Flexibility Act, it will not have a significant impact on a substantial number of small entities. In addition, the FAA has determined that, while a regulatory evaluation was prepared for the final rule, the expected further impact of this notice and correction is so minimal that it does not require an evaluation.

Issued in Washington, D.C., on June 15, 1981.

J. Lynn Helms,
Administrator.

[FR Doc. 81-20319 Filed 7-10-81; 8:45 am]

BILLING CODE 4910-13-M