
Tuesday
December 22, 1987

Federal Register

Part V

**Department of
Transportation**

Federal Aviation Administration

**14 CFR Parts 108 and 129
Airplane Operator and Foreign Air Carrier
Security Rules; Final Rule and Request
for Comments**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 108 and 129**

[Docket No. 25502; Amdts. Nos. 108-5 and 129-15]

Airplane Operator and Foreign Air Carrier Security Rules**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule; request for comments.

SUMMARY: This final rule requires the application of certain security procedures to all persons entering an airport sterile area in the United States at a preboarding screening check point. These procedures are designed to prevent or deter the carriage aboard aircraft of explosives, incendiaries, and deadly or dangerous weapons. These amendments are intended to limit the application of special procedures that have allowed certain classes of individuals to enter sterile areas through screening points without inspection of their persons and accessible property. They are needed to respond to a threat to aviation security highlighted by the recent crash of an air carrier aircraft with the loss of 44 lives.

DATES: This amendment is effective December 21, 1987. Comments must be received on or before February 21, 1988.

ADDRESS: Send comments on this final rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 25502, 800 Independence Avenue SW., Washington, DC 20591; or deliver comments in duplicate to: Federal Aviation Administration Rules Docket, Room 916, 800 Independence Avenue SW., Washington, DC 20591. Comments must be marked Docket No. 25502. Comments may be examined in the Rules Docket on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Donnie Blazer, Domestic Civil Aviation Security Division, Office of Civil Aviation Security, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Telephone: (202) 267-8058.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Because of the emergency need for this regulation, it is being adopted without notice and public comment. However, the Regulatory Policies and

Procedures of the Department of Transportation (44 FR 11034; February 26, 1979) provide that, to the maximum extent possible, DOT operating administrations should provide an opportunity for public comment, after issuance, for regulations issued without prior notice. Accordingly, interested persons are invited to comment on this final rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-204, Docket No. 25502, 800 Independence Avenue SW., Washington, DC 20591. All comments received will be available in the Rules Docket for examination by interested persons. This amendment may be changed in the light of comments received.

Commenters wishing the FAA to acknowledge receipt of their comments on this final rule must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25502." The postcard will be date and time stamped and returned to the commenter.

Background

Part 108 of the Federal Aviation Regulations requires each certificate holder required to conduct security screening to prevent or deter the carriage aboard its airplanes of any explosive, incendiary, or deadly or dangerous weapon on or about any individual's person or accessible property. The certificate holder must use the procedures included, and the facilities and equipment described, in its security program approved by the FAA for this purpose. Similar requirements in Part 129 apply to foreign air carriers landing or taking off in the United States.

Under the security screening procedures adopted by U.S. certificate holders and foreign air carriers in their required security programs, employees of the airport and air carriers and other classes of individuals, including law enforcement officials, have been permitted to pass through airport screening points under special procedures. Under these programs, many of these individuals have not been required to submit to the inspection of their persons or accessible property. The FAA did not regard these classes of individuals as a risk to aviation security when they were properly identified and the special procedures were correctly applied.

Recent events have caused concern over the proper application of these procedures. On December 7, 1987, Pacific Southwest Airlines Flight 1771 apparently was caused to crash by an individual who had smuggled a gun aboard the aircraft. Forty-four persons lost their lives in this incident. While it is not yet clearly established whether the perpetrator of this crime used an air carrier employee identification card to avoid inspection of his person and property, the incident raises questions about the applicability of the screening process to airport and airline employees. Clearly proper application of the special screening procedures should prevent any unauthorized airport or airline employee from avoiding inspection of his or her person and accessible property. The FAA is particularly concerned that individuals, using real or forged identification, may attempt to similarly compromise the screening system. To ensure maximum protection of all of those involved in aviation and restore public confidence in the aviation security system, the FAA is adopting immediately rules to remove this possible abuse of the screening system.

These amendments to Parts 108 and 129 provide that all individuals who enter an airport sterile area at each preboarding screening checkpoint in the United States must be inspected using procedures, facilities, and equipment designed to detect explosives, incendiaries, and deadly or dangerous weapons. In addition, all accessible property under that person's control must be inspected. These inspection procedures will be applied to all airport and airline employees. Only limited exceptions will be authorized by the Administrator.

These emergency amendments apply only to operations of certificate holders and foreign air carriers in the United States. They apply to screening at each checkpoint in the United States for which the certificate holder or foreign air carrier is responsible, even if the screening of its passengers at a specific checkpoint is conducted by another operator.

Reason for No Notice and Immediate Adoption

These amendments are needed immediately to ensure the overall effectiveness of the aviation security regulations to meet this particular threat. For this reason, notice and public procedure are impracticable, and good cause exists for making this amendment effective in less than 30 days. In accordance with DOT Regulatory Policies and Procedures, an opportunity

See correction

for public comment after publication is being provided.

Economic Assessment

Because of the emergency need for this regulation and in accordance with section 8(a)(1) of Executive Order 12291, I find that following the procedures of that Executive Order is impracticable. For the same reason, no regulatory evaluation has been prepared prior to publication of this final rule. In accordance with section 11(a) of the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), a regulatory evaluation will be prepared and placed in the public docket, unless an exception is granted by the Secretary of Transportation.

Because none of the certificate holders affected by the amendment to Part 108 is a small entity and because the cost to the additional individuals submitting themselves to detection procedures is minimal, these amendments will not have a significant economic impact on a substantial number of small entities.

Conclusion

In accordance with section 8(a)(1) of Executive Order 12291, because of the emergency need for this regulation, the procedures in that Executive Order have not been followed. In view of the substantial public interest in the matter of aviation security, this regulation is considered significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since none of the certificate holders affected by the amendment to Part 108 is a small entity

and since the cost to individuals is minimal, it is certified that these amendments will not have a significant economic impact on a substantial number of small entities. A copy of the regulatory evaluation to be prepared for these amendments will be placed in the public docket, unless an exception is granted by the Secretary of Transportation.

List of Subjects

14 CFR Part 108

Airplane operator security, Aviation safety, Air transportation, Air carrier, Airlines, Security measures, Transportation.

14 CFR Part 129

Foreign air carrier, Aircraft, Air carrier.

The Amendment

Accordingly, Parts 108 and 129 of the Federal Aviation Regulations (14 CFR Part 108 and 129) are amended as follows:

PART 108—[AMENDED]

1. The authority citation for Part 108 continues to read as follows:

Authority: 49 U.S.C. 1354, 1356, 1357, 1358, 1421, and 1424; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

2. By adding a new paragraph (c) to § 108.9 to read as follows:

§ 108.9 Screening of passengers and property.

(c) Except as provided by its approved security program, 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 for detecting explosives, incendiaries, and deadly or dangerous weapons to inspect each person entering a sterile area at each preboarding screening checkpoint in the United States for which it is responsible, and to inspect all accessible property under that person's control.

PART 129—[AMENDED]

3. The authority citation for Part 129 continues to read as follows:

Authority: 49 U.S.C. 1346, 1354(a), 1356, 1357, 1421, 1502, and 1511; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

4. By adding a new paragraph (j) to § 129.25 to read as follows:

§ 129.25 Airplane security.

(j) Unless otherwise authorized by the Administrator, each foreign air carrier required to conduct screening under this part shall use procedures, facilities, and equipment for detecting explosives, incendiaries, and deadly or dangerous weapons to inspect each person entering a sterile area at each preboarding screening checkpoint in the United States for which it is responsible, and to inspect all accessible property under that person's control.

T. Allan McArdor,
Administrator.

Issued in Washington, DC., on December 18, 1987.

[FR Doc. 87-29424 Filed 12-21-87; 9:38 am]

BILLING CODE 4910-13-01

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 108 and 129

**[Docket 25502; Amdt. Nos. 108-5 and
129-16]**

**Airplane Operator and Foreign Air
Carrier Security Rules; Correction**

January 21, 1988.

AGENCY: Federal Aviation
Administration.

ACTION: Final rule; request for
comments; correction.

SUMMARY: FAA is correcting errors in
Amendment Number 129-15, Airplane
Operator and Foreign Air Carrier
Security Rule. In FR Doc. 87-29424,
published Tuesday December 22, 1987,
on page 48508, please correct the
amendment number "129-15" to read
"129-16".

FOR FURTHER INFORMATION CONTACT:
Mr. Donnie Blazer, 202-267-8058.

Debbie King,

Acting Manager, Program Management Staff.

[FR Doc. 88-1565 Filed 1-26-88; 8:45 am]

BILLING CODE 4910-13-M
