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**Department of
Transportation**

Federal Aviation Administration

**14 CFR Part 107
Access to Secure Areas of Airports;
Final Rule**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 107**

[Docket No. 25568; Amdt. No. 107-4]

RIN 2120-AC69

Access to Secured Areas of Airports**AGENCY:** Federal Aviation Administration (FAA). DOT.**ACTION:** Final rule.

SUMMARY: This rule establishes a requirement for certain airport operators to submit to the Director of Civil Aviation Security, for approval and inclusion in their approved security programs, amendments to ensure that only those persons authorized to have access to secured areas of an airport are able to obtain that access and, also, to ensure that such access is denied immediately to individuals whose authority to have access changes. The rule provides for the installation and use of a system, method, or procedure that meets certain performance standards, or the use of an approved alternative system, method, or procedure for controlling access to secured areas of airports. This rule is needed to improve control of the locations that provide access to secured areas of airports. It is intended to enhance airport security by precluding access to these areas by unauthorized persons.

EFFECTIVE DATE: February 8, 1989.

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SUPPLEMENTARY INFORMATION:**Background**

The Federal Aviation Administration's (FAA) Civil Aviation Security Program was initiated in 1973. Part 107 of the Federal Aviation Regulations was promulgated to provide a secure environment in which air carriers can operate. Airport operators are required by Part 107 to have an FAA-approved airport security program. The approved security program must describe the functions and procedures to control access to certain areas of the airport and to control movement of persons and vehicles within those areas. The Personnel Identification Procedures contained in airport security programs provide a means of control once an individual has gained access to a

restricted area. The FAA is concerned that these procedures could allow an individual using forged, stolen, or noncurrent identification to compromise the secured areas. The FAA is also concerned that former employees could use their familiarity with airline and airport procedures to succeed in entering a secured area and possibly commit a criminal act on board an aircraft.

The December 7, 1987, tragedy involving Pacific Southwest Airlines (PSA) Flight 1771, in which 38 passengers and 5 crewmembers were killed after departing Los Angeles International Airport, highlighted FAA's interest in improving the control of access to secured areas of an airport. An airport area where access to aircraft and airport facilities is possible should be accessible only to an individual who is authorized to be in that area. These areas should be controlled carefully to prevent tampering with aircraft and airport facilities and to preclude tragic consequences.

The FAA accelerated its efforts to head off the type of situation potentially reflected by the crash of PSA Flight 1771 and to improve the level of security generally. This acceleration resulted in the promulgation of an emergency final rule amending the preboarding screening procedures contained in Parts 108 and 129 of the Federal Aviation Regulations (52 FR 48508; December 22, 1987). To complement the procedures required by that emergency regulation and to expand the performance standards of security systems at airports, on March 11, 1988, the FAA issued Notice of Proposed Rulemaking (Notice) No. 88-6 (53 FR 9094; March 18, 1988). That notice proposed that airport operators, whose airports met certain criteria, be required to submit to the Administrator, for approval and inclusion in their approved security programs, amendments to their programs that ensure that only those persons authorized to have access to secured areas of an airport are able to obtain that access and also ensure that such access is denied immediately to individuals whose authority to have access changes. It further proposed that the program provide for a means to differentiate between persons authorized to have access to only a particular portion of the secured area and persons authorized to have access only to other portions or to the entire secured area. To provide this increased control of locations on the airport, the FAA proposed in Notice No. 88-6 the installation of a computer-controlled card access system. The notice also proposed that airport operators be

allowed to install alternative systems which, in the Administrator's judgment, would have the same capabilities as the computer-card system and would provide an equivalent level of security.

Additionally, Notice No. 88-6 specifically stated that the proposal would supplement, not replace, the existing photo identification system required by an airport operator's approved security program. The continuous display of the individual identification in secured areas is necessary so that unauthorized individuals can be challenged in accordance with § 107.13. However, the notice proposed that the airport operator be given the option of integrating the system proposed by Notice No. 88-6 with the photo identification system and issuing a single credential.

The anticipated capabilities of a computer-controlled card access system were discussed in Notice No. 88-6. In addition to being able to monitor each location where access to the secured area is permitted by means of a "card reader" linked to the control computer, the system would be designed to provide for unique coding for each card. The system would also be capable of performing other functions that can improve an airport's security profile including the ability to cause an alert when access is denied to a person who attempts to use an invalid card and to establish a log of the system's activity. The notice intentionally did not address the details regarding the actual locations of the card readers and the operational methods to be employed by the system since each individual airport would employ a system specific to its needs.

In Notice No. 88-6, the FAA proposed a 4-phase schedule for airport operators to submit to the Administrator amendments to their security programs. The phases were based on the total number of persons screened annually at an airport. (The preamble to the proposed rule incorrectly stated "number of passengers screened" annually.)

The notice proposed that, upon approval of the amendment by the Administrator, airport operators would fully implement their systems within 6 months from the date of approval. However, the Administrator could allow up to an additional 6 months for implementation of the system at certain locations on each airport. The intent was to ensure implementation at the most critical airport locations and to allow additional time for implementation at locations that provide access to more remote locations on the airport.

Discussion of Comments

As of May 31, 1988, the FAA received 122 written comments in response to Notice No. 88-6 from organizations representing the aviation industry, air carriers, individuals, manufacturers, and airports. The majority of the commenters object to the proposal either in part or in its entirety. They believe the proposal to be premature and lacking in its evaluation of complex issues. Numerous commenters support the intent of the proposed rule but express concern because it lacked specificity about the requirements and because they made incorrect assumptions about the scope of the requirements. The following discussion is intended to address the comments and explain the FAA's response to the concerns identified in the 122 comments received through May 31, 1988. The FAA has reviewed and considered late-filed comments to determine if any new issues were raised or any significant, new factual information was provided.

Six commenters request a 60-day extension of the May 2, 1988, closing date for comments on Notice No. 88-6 including requests from the American Association of Airport Executives (AAAE), the Airport Operators Council International (AOCI), and the Regional Airline Association (RAA). A letter was also received from the Air Transport Association (ATA) in support of the AAAE and AOCI requests. They comment that, considering the magnitude of the issue, more time is needed to allow for wider distribution and discussion, to prepare additional information concerning the costs associated with the proposed system, and to allow maximum comments and facilitate an open exchange of ideas. The FAA denied the requests for extension. However, the FAA continued to consider late-filed comments beyond July 2, the date on which the requested extension period would have expired.

Twelve commenters are recommending that Notice No. 88-6 be withdrawn to allow time for the FAA, airport operators and tenants, and other interested parties to explore the total security problem that might exist at airports. At least three commenters are requesting a public hearing which they believe will allow them to air their concerns and expose pertinent issues thereby providing the FAA and the aviation community with necessary information. Ten commenters specifically request the FAA to conduct a study of the technology that is available regarding automated access control systems to determine the most appropriate system to accomplish the

objective of the proposals. Several commenters, including the ATA and AAAE, recommend that the FAA conduct a pilot program at several airports to evaluate more realistically the issues involved in this rulemaking.

While worthy of merit under less compelling circumstances, the implementation of any of these recommendations would result in the postponement of a security measure intended to promote the safety of air transportation and therefore must be balanced carefully against that goal. The information that would be provided to the FAA through a public hearing would duplicate, to a large extent, that already contained in Docket No. 25568. Through its experience at more than a dozen major airports and other facilities, the FAA has been made aware of most of the existing technology regarding computerized access control systems and is confident that technology is available to meet the requirements of this final rule. Additionally, the FAA historically has been reviewing and evaluating all aspects of an airport operator's security program to ensure that it is commensurate with the size, layout, location, and activity level of the particular airport. Consequently, the FAA fully expects to be involved early on regarding the scope and design of a system that meets the required performance standards or an approved alternative that will comply with the final rule. From its historical role, as well as its early participation in the process outlined in this final rule, the FAA believes that the requirements of this rulemaking are both realistic and supportable.

The FAA plans also to issue general guidelines to assist airport operators in their selection of a system, method, or procedure and preparation of an amendment. The guidelines also will assist FAA personnel in their review and approval of the amendment containing an airport operator's proposed strategy to install and implement a system, method, or procedure that meets the performance standards or an approved alternative. In summary, the FAA's input and involvement at the very early stage will address many of the commenters' concerns that might otherwise argue for delaying final action.

Funding was another concern identified by 46 commenters. Most of them indicate that the Airport Improvement Program (AIP) would be their only source of funding. Many airport managers make reference to the notice which states that the proposed system would be eligible for funding

under AIP; however, their concern is that the amount of AIP funding available would not cover all costs. Commenters also express concern that other airport improvement projects would be impeded due to the diversion of AIP funds. Several of the commenters recommend that the FAA consider making other funds available if a final rule is issued. Lastly, the commenters state that the short implementation schedule proposed in the notice could make AIP funding impossible due to the amount of time needed to process such requests.

The majority of the airports covered by this rule are primary airports. These airports, particularly the larger ones, have historically funded much or most of their capital development without Federal financial aid. In addition, primary airports receive entitlement funds each year under the AIP. It is expected that these airport sponsors would use the AIP entitlements or their own resources to fund required security capital costs. To the extent that these resources are not adequate at smaller airports and depending on the availability of other funding sources within the AIP, the FAA would consider supporting the program with funding, as necessary. Since the final rule includes a revised implementation schedule, the FAA believes that normal funding within the AIP should be sufficient to aid airports, and a "set aside" fund is not necessary.

Fifty-eight commenters are concerned about the costs that would be involved to achieve compliance with the requirement being proposed. They believe the cost figures reflected in the notice to be underestimated. Several commenters, including the ATA, AAAE, and AOCI, provide details of estimated costs. Those organizations indicate that the FAA cost estimates are underestimated by as much as a factor of 10. For that reason, the commenters believe that the Regulatory Evaluation is not accurate. They also state that the regulation being proposed meets the criteria for a major regulation under Executive Order 12291 and, therefore, requires a Regulatory Impact Analysis.

In response to the concerns regarding the estimated costs of the proposal, the FAA reviewed further the data contained in its Regulatory Evaluation. The results of that review are reflected in the evaluation for the final rule. A summary of the Regulatory Evaluation is included in this preamble under the heading "Economic Summary."

The concerns identified by the commenters regarding the implementation of the proposal reflect the extremely tight timeframe proposed

in Notice No. 88-6. Twenty-nine commenters contend that the unrealistic schedule makes compliance impossible considering the time-consuming process involved for budgeting, designing, bidding, procuring, and installing a system. Several commenters are recommending 2 years in addition to the time proposed in Notice No. 88-6. One commenter recommends that the compliance time for this requirement be 3 years following the allocation of dedicated AIP funds.

The FAA agrees with the commenters regarding their concerns about the implementation schedule proposed in Notice No. 88-6. Accordingly, the final rule contains a revised implementation schedule. The revised schedule constitutes a significant change from the language proposed in Notice No. 88-6.

Thirteen commenters express concern for the effectiveness of a system that airport operators might be forced to implement if they are subject to the schedule proposed in the notice. If 269 airports were required to comply with the schedule as proposed in the notice, the overdemand for qualified vendors would require using inexperienced contractors and companies. The commenters are in favor of extending the time period for implementation since compliance with the proposed schedule could have a detrimental effect on the system quality and reliability, especially at medium- and small-sized airports.

The FAA considers these concerns to be valid, and as stated above, the schedule contained in the final rule is revised. Current data indicate that 270 airports would be required to comply with a final rule.

The performance standards associated with a computer-controlled card access system causes serious concerns for at least 14 of the commenters. Nine commenters believe the time-date requirement for controlling access to be impractical due to necessary adjustments in work schedules to meet demands. Their specific concern is for the impact it will have on day-to-day operations; e.g., reassigning staff personnel, using different gates for delayed flights, working overtime, and changing workshifts.

If a computer-controlled card system is selected by an airport operator to meet the requirements of the final rule, the FAA anticipates that the system would be designed to have unique coding for each card so that the computer can be reprogrammed in minutes to revise the access authorized by a specific card. Such details will be developed in the context of the amendment to an airport's approved

security program and will take into account the need for operational flexibility. The FAA plans to issue general guidelines on system operation.

Many of the commenters express concern for terminology contained in the notice. "Secured area" is not defined in Part 107 or 108 of the FAR. Two commenters request a definition of "immediately" which is stated in the proposal to indicate when access should be denied to individuals whose authority changes. Other commenters express concern regarding the use of the word "airports" versus "airport operators" in the preamble to Notice No. 88-6. Twenty commenters are concerned about an apparent conflict that centers around the airport operator's responsibilities for security under Part 107 and those of air carriers subject to Part 108 who have entered into exclusive use agreements with airport operators. The commenters urge the FAA to clarify this issue before proceeding with a final rule. One commenter requests standardization by the FAA in its interpretation of a final rule.

The FAA intentionally did not define "secured area" in the notice, nor is it defined in the final rule. To do so could result in the compromise of airport operators' security programs. Use of the term "immediately" is intended to stress the urgency with which an airport operator should act to deny access to secured areas by unauthorized individuals. The preamble to Notice No. 88-6 used the phrase "in a matter of minutes." Although the FAA has not further defined this term in the final rule, the FAA believes that the time interval should be the reasonable minimum time necessary to adjust the database to deny access to an individual. Regarding the use of the word "airport," the FAA agrees that the preamble statement referenced by the commenters creates confusion. However, the proposed rule and the final rule clearly establish that the regulated entity is the airport operator. Finally, the FAA does not view the use of the term "airport operator" as being inappropriate notwithstanding that an airport operator may have entered into an exclusive use agreement with an air carrier. When entering into an exclusive use agreement, the air carrier must accept the controls and procedures levied upon it by the airport operator. In such a case, the airport operator may be required to establish additional controls or modify existing ones for selected areas of an airport to comply with this final rule.

The FAA agrees with the commenter who requests that the FAA standardize its interpretation of a final rule to

prevent serious differences in its implementation. The FAA will accomplish the requested standardization through the issuance of guidance to the various FAA regions for dissemination to the civil aviation security inspectors.

A number of commenters express concern that individuals who ordinarily have access at several airports (such as crewmembers or officials of a multi-airport jurisdiction) would need a card for each airport. At least five commenters recommend that a commonality exist among the systems to preclude possible confusion and inconvenience stemming from individual systems which deny access to the above individuals. The commenters, in essence, recommend that the FAA require access control systems that are compatible on a national basis.

The FAA does not agree at this time that imposing uniformity is warranted. First, it would require imposing a uniform type of system, e.g., a computer-controlled card system. Moreover, requiring each airport to have a system with nationwide capacity and compatibility (capable of storing hundreds of thousands of names) would drive system costs up and would benefit only a small segment of the individuals who are associated with the regulated entities. Moreover, since the final rule expands the opportunity to use an alternative system, method, or procedure in response to the comments, nationwide uniformity is not practicable. However, an effort is underway to study the feasibility of an access system with multi-airport capabilities. The FAA anticipates that operational issues will be identified in the study.

Twenty commenters address the issue of alternative access control systems that provide an equivalent level of security. Many of these commenters, including operators of small airports, state that nonautomated systems should be permitted. They believe that the requirement for the alternative to have the same capabilities as a computer-controlled card system is too restrictive. Ten comments were received from people who are in the business of providing systems for access control. The intent of these commenters is to make the FAA aware of technologies that are available, and, more importantly, to recommend that a final rule not require one type of system while allowing others to be used by exception as proposed in Notice No. 88-6.

The FAA agrees that, in addition to the specific technology identified in Notice No. 88-6, others may be available

to meet the objectives of the proposal. The FAA also envisions that operators of the smaller airports may be able to meet the requirements of this final rule with minimal or no computer-assisted hardware installation. The final rule is revised accordingly.

The lack of specificity regarding the doors, gates, or other locations that would be involved in the implementation of the proposed system is of concern to 24 commenters. They contend that the number of access points to be controlled will significantly impact the cost of the system. They also express concern about the applicability of a rule to those points that give access to various suppliers who are making daily deliveries to tenants in a restricted area and to the current escort procedures that provide construction workers with daily or temporary access to restricted areas. Seven commenters believe the proposal to be in conflict with fire codes.

For the same reason that "secured area" was not defined, the FAA was not specific regarding doors, gates, and other locations to be controlled. To do so would compromise an airport operator's security program. For that reason, the FAA specifically requested that airport operators not discuss in their comments specific details of current or proposed security arrangements. The FAA-planned guidance for the various FAA regions will assist the FAA personnel and airport operators in the identification of those access points that should be subject to control by the system, method, or procedure required by this final rule. The FAA does not envision that every door or other access point will need the enhanced access controls. In response to the concern regarding suppliers, the intended effect of the requirement proposed by the notice will not allow the FAA to consider the inconvenience of such a requirement to any one group. Escort procedures are associated with an airport's identification system, and Notice No. 88-6 stated that the proposal would supplement, not replace, an existing identification system required by an airport operator's security program. Escorting of persons will continue to be permitted under the rule.

Twenty-nine commenters state that the complicated and expensive automated security measures proposed by the notice are not necessary at small airports since small airports experience different types of problems than do large airports. Nineteen commenters specifically state that the current procedures are adequate and that the

level of security anticipated by the FAA through the final rule can only be obtained via greater discipline of personnel and more training on security issues. Six commenters recommend an evaluation of different airports to determine the scope of security needs and to give consideration to the complexity of operations before effecting a rule to require all airports to have a complex and expensive computer-controlled system.

The FAA agrees with the commenters and recognizes that security varies from airport to airport. The final rule is revised to permit FAA approval of an alternative system, method, or procedure that provides an appropriate level of security commensurate with an airport's needs.

At least three commenters express concern that Notice No. 88-6 does not address the impact on fixed based operators (FBO) and request clarification of this issue. Eleven commenters express the same concern for general aviation (GA) operations.

Upon adoption of a final rule, the airport operator would be the regulated party. As tenants of the airport, FBO's and GA operations would be subject to the control procedures identified by the airport operator.

Seventeen commenters state that the required system will not prevent a person from violating security measures if that person has such a desire. At least three commenters state that the required system will not prevent the PSA Flight 1771 type of tragedy.

The FAA believes that the emergency final rule amending the preboarding screening procedures complemented by the requirements of this rule to require airport operators to implement a positive access control system will substantially increase the overall level of security and will minimize the likelihood of a PSA Flight 1771 type of situation.

Finally, 11 persons comment that the proposed regulation will, at the very least, enhance security to a minimal degree. They contend that in some cases security will deteriorate if all issues involved at any one airport are not considered in the system design and implementation.

The FAA believes that the final rule will enhance airport security beyond a minimal degree since its intent is to preclude access to secured areas by unauthorized persons. Since the commenters did not identify the specific issues to be considered to prevent a deterioration of security, the FAA cannot adequately respond to that concern.

Discussion of the Rule

After considering the comments, the FAA is amending Part 107 to add a new § 107.14 to require improved access control to secured areas of certain airports. The final rule revises the proposed rule in several significant respects as a result of the comments received.

Section 107.14(a). Paragraph (a) of § 107.14 is revised in three ways from the proposal. First, the amendment to an airport operator's approved security program is to be submitted to the Director of Civil Aviation Security rather than the Administrator. The substitution of the Director of Civil Aviation Security for the Administrator has been made throughout § 107.14. Second, the last two sentences of proposed paragraph (a), dealing with the timeframe for implementation of a required system, have been deleted. The implementation schedule is found in paragraph (c) of § 107.14 of the final rule and is discussed below. Third, the requirement of paragraph (a) that certain airport operators submit, for approval and inclusion in their approved security programs, amendments that provide for the installation and use of a computer-controlled card system for access to secured areas of the airport, has been modified. Paragraph (a) now requires the installation and use of a system, method, or procedure that meets specified performance standards to control access to secured areas of the airport. This change allows the installation and use of systems, methods, or procedures other than computer-controlled card systems which may be currently available or that become available in the future as technology evolves and that meet the performance standards.

Section 107.14(b). Paragraph (b) of § 107.14 addresses the approval of alternative systems, methods, or procedures. The final rule reflects major changes from the proposed rule as a result of comments received. Approval of an alternative under the final rule is not tied to having the same capabilities as the system, method, or procedure meeting the performance standards of paragraph (a). This permits approval of other than automated systems. However, the critical element for approval of any alternative is the same in the final rule as it was in the proposed rule; the alternative must provide an overall level of security equal to that which would be provided by the type of system, method, or procedure described in paragraph (a).

Section 107.14(c). Paragraph (c) of the proposed rule sets forth the schedule for airport operators to submit the amendments to their approved security programs required by paragraph (a) or (b). The final rule retains the 4-phase approach and the timeframes for airports subject to each phase to submit their amendments. Airport operators may submit their amendments prior to the date required by this final rule. For example, since some airport operators will be able to meet the requirements of the rule without installing a system, method, or procedure that meets the performance standards of paragraph (a), and will be able to meet the intent of the rule on a much faster timeframe, they are encouraged to submit their plans before the dates required by the final rule.

Operators of Phase I airports, where 25 million or more persons are screened annually or as designated by the Director of Civil Aviation Security, must submit amendments by 6 months after the effective date of the final rule. Operators of Phase II airports, where more than 2 million persons are screened annually, must submit amendments by 6 months after the effective date of the final rule. Operators of Phase III airports, where 500,000 to 2 million persons are screened annually, must submit amendments by 12 months after the effective date of the final rule. Operators of Phase IV airports, where less than 500,000 persons are screened annually, must submit amendments by 12 months after the effective date of the final rule.

Paragraph (c) of the final rule also includes an implementation schedule. The implementation timeframe, which was in paragraph (a) of the proposed rule, is substantially revised in the final rule. The proposed rule provided that "the system must be in use within 6 months" after approval of an airport operator's amendment to its approved security program. The proposed rule also provided for an additional 6 months at certain locations on an airport. The short timeframe of the proposed rule applied to airports in all four phases.

The final rule is different in several major respects. First, the implementation schedule is now linked to the phases. The final rule provides that the system, method, or procedure must be fully operational within 18 months after approval of an airport operator's amendment to its approved security program only at Phase I airports. Operators of Phase II airports have 24 months after approval of the amendments to their approved security programs. Operators of Phase III and IV

airports have 30 months. The approved amendment for each airport shall specify how the system, method, or procedure will be fully operational within the appropriate timeframe.

Finally, paragraph (c) has added language to address the situation where an existing airport becomes subject to the requirements of § 107.14 after the effective date of the final rule. The timeframes for such an airport operator to submit an amendment to its approved security program and to specify that the system, method, or procedure must be fully operational depend on the phase that is applicable to the airport.

Section 107.14(d). A new paragraph (d) is included in the final rule to address the situation of brand new airports commencing operations after December 31, 1990. It is FAA's view that new airports should meet the requirements of section 107.14 when they commence operations since the improved access control requirements of the rule can be included in the design for these new airports and at a lower cost than a subsequent retrofit.

Economic Summary

The following is a summary of the final cost impact and benefit assessment of this rule amending Part 107 of the Federal Aviation Regulations to provide enhanced control of access to secured areas at certain U.S. airports. A full regulatory evaluation has been inserted into the public docket for this rulemaking.

For purposes only of this evaluation, the projected economic impact of the rule is based on the costs of installing and operating a computer-controlled card access system. Other access control systems, methods, or procedures may be permitted as a means of compliance with this rule subject to the approval of the Director of Civil Aviation Security.

Fifty-eight of the 122 written comments received as of May 31, 1988, in response to Notice No. 88-6 published in the *Federal Register* on March 18, 1988, pertain to the economic impact of the proposal. These comments were submitted by industry associations, individual airport authorities, air services, and producers of airport security equipment. The vast majority of these comments generally state that the FAA had underestimated the total costs required for compliance with the proposed rule.

Many of these comments are premised on two basic assumptions: (1) That the FAA underestimated the cost per access point, and (2) that the FAA underestimated the number of access

points requiring enhanced control at airports.

The FAA has carefully reviewed its own cost estimates in light of comments received and does not agree that it underestimated the cost per access point. The FAA's estimates of design, testing, hardware, installation, maintenance, software update, and security card replacement costs were based on price quotes of manufacturers of computer card access systems. Cost per access area will differ for airports of different sizes, due to the large number of variables in required equipment, labor and maintenance and structural alterations associated with retrofit of existing systems. Thus, it is misleading to estimate total costs of the proposed rulemaking based on the cost per access area of one or two airports, as was done by some commenters.

Regarding the number of access points, the FAA believes that several commenters misunderstand the scope of the proposed rulemaking and have therefore overestimated the number of access points that the rule would require to have enhanced access controls (system, method, or procedure). In determining the number of doors that would be affected, the FAA did not envision that every door in a terminal area would need to be so controlled. Rather, the design of many airport buildings permits a "funneling through" effect which would minimize the number of doors requiring such enhanced control. In general, funneling persons through a single point with enhanced access controls to an area would eliminate the need to have such controls at subsequent doors.

Therefore, for its economic analysis of the final rule, the FAA has not revised its estimates of the average number of access points that would need to be controlled in the four categories of airports. The number of access points for airports of each phase remains as follows in the economic analysis of the final rule:

- Phase I: 128 access points
- Phase II: 60 access points
- Phase III: 25 access points
- Phase IV: 10 access points

Several airport operators comment that the cost of the required security measure described in Notice No. 88-6 is excessive and would impose a heavy financial burden on them. The FAA recognizes these concerns and has therefore emphasized in the final rule that an airport operator may submit an amendment to its security program for approval by the Director of Civil Aviation Security, which does not

necessarily require a computer card or automated system. The Director of Civil Aviation Security may approve such an alternative system, method, or procedure if, in the Director's judgment, it provides an overall level of security equal to that of a system, method or procedure meeting the performance standards outlined in the final rule. These performance standards, although stringent, do not specifically require use of a computerized or automated system.

In addition, the implementation schedule for affected airports has been revised in the final rule to allow more time for compliance, particularly for medium- and small-sized airports. One positive effect of this change may be to spread up-front costs for installation over a longer period of time, easing the burden on many airport operators.

Costs

This analysis of the costs of compliance with the final rule is premised on the assumption that all 270 airports will install computer-controlled card access systems. In actuality, many airport operators, particularly of medium- and small-sized airports in Phases III and IV, may install alternative access control systems, methods, or procedures, with the approval of the Director of Civil Aviation Security, that may prove to be less costly than the computer card systems. Therefore, the actual costs of this rule may be less than the estimated costs in this analysis.

Estimated costs of implementing controlled access systems at 270 airports in the United States, in accordance with the specifications and revised schedule of new § 107.14, are \$169.9 million in 1987 dollars, and \$119.1 million discounted present value (employing a 10 percent discount rate), for the 10-year evaluation period from

1989-1998. For Phase I airports, average hardware and installation costs are expected to be \$1,465,600, with average annual recurring costs of approximately \$126,600. For Phase II airports, average hardware and installation costs are expected to be \$732,000, with annual recurring costs of approximately \$88,730. For Phase III airports, average hardware and installation costs are expected to be \$245,000, with annual recurring costs of approximately \$42,969. For Phase IV airports, average hardware and installation costs are expected to be \$56,000, with annual recurring costs of approximately \$3,100. Table I shows the total of these costs by phase of airport and by year for the 270 airports affected by this rule.

The revised implementation schedules specified in this rule for airports of the four phases, permitting installation, maintenance and labor costs to commence later than indicated in the Initial Regulatory Evaluation, have the effect of slightly reducing the present value of total costs. Nonetheless, overall estimated costs of compliance have increased from estimates in the Initial Regulatory Evaluation, as a result of an increase in the number of airports in each phase. According to a recent review, there are 17 rather than 16 airports in Phase I, 54 rather than 48 airports in Phase II, 46 rather than 45 airports in Phase III, and 153 rather than 160 airports in Phase IV.

Benefits

The primary benefit of this rule will be the prevention of potential fatalities and injuries and the destruction of property resulting from a criminal act or an act of air piracy. The tragic loss on December 7, 1987, of 38 passengers and 5 crewmembers aboard PSA Flight 1771, serves as a basis for focusing on the type of catastrophic event that may be

prevented by adopting new security regulations. It is important to recognize that the PSA Flight 1771 incident involved a smaller aircraft and passenger load than a typical Part 121 air carrier operation. If such a criminal act were perpetrated in a larger or more heavily loaded aircraft, the casualty loss would have been significantly higher.

The estimated \$119.1 million cost (discounted present value) of this rule can be recovered fully if one incident, involving the loss of 170 lives and a wide-bodied jet transport of the type typically used in domestic operations, is prevented as a result of requiring improved security programs at U.S. airports during the 10 years following adoption of this rule. This determination is based upon a minimum value of \$1.0 million per life saved, used in FAA regulatory evaluations, and an aircraft hull value of approximately \$30.0 million, discounted from the middle of the 10-year evaluation period to account for the uncertainty of when such an incident may be prevented.

Regulatory Flexibility Determination

This amendment would affect 270 of the 427 airports subject to the security provisions of Part 107. The FAA's small entity size standards criterion define a small airport as one owned by a county, city, town or other jurisdiction with a population of 49,999 or less. Applying the FAA's size threshold criterion, 76 of the 427 airports are small. Since only 22 of the 270 airports that would be required to comply with this proposal are small, the requirement for the enhanced access controls will not affect a substantial number (at least one third) of the 76 small airports subject to Part 107. Therefore, this final rule will not have a significant economic impact, positive or negative, on a substantial number of small entities.

TABLE I.—COST OF COMPUTER-CONTROLLED CARD ACCESS SYSTEMS FOR YEARS 1989-1998

Year	Phase I	Phase II	Phase III	Phase IV	Total Costs
1989	² \$9,444,067	\$13,417,920			\$22,861,987
1990	² 18,599,133	² 24,312,420	² 5,359,491		48,271,044
1991	¹ 1,989,000	² 14,430,420	² 5,646,991		22,066,411
1992	1,989,000	¹ 4,548,420	² 5,646,991	² 8,698,050	20,882,461
1993	1,989,000	4,548,420	¹ 1,890,324	¹ 359,550	8,787,294
1994	2,641,800	4,548,420	1,890,324	359,550	9,440,094
1995	1,989,000	5,520,420	1,890,324	359,550	9,759,294
1996	1,989,000	4,548,420	2,235,324	818,550	9,591,294
1997	1,989,000	4,548,420	1,890,324	359,550	8,787,294
1998	2,641,800	4,548,420	1,890,324	359,550	9,440,094
Total Cost (1987 dollars)	45,260,800	84,971,700	28,340,416	11,314,350	169,887,266
Total Cost (present value; 10% discount rate)	33,345,586	60,267,176	18,312,651	7,224,445	119,149,858

¹ Recurring annual costs include security access card replacement, computer maintenance, software update and support, and additional labor. Recurring costs also include card readers maintenance every 4th year.

² One-time installation costs include planning and procurement of computers, peripheral equipment, card readers, security access cards, engineering site survey and design, and Manager/Operator training.

Trade Impact Statement

This rule is expected to have no impact on trade opportunities for both U.S. firms doing business overseas and foreign firms doing business in the United States. This amendment affects only certain domestic airports subject to Part 107 of the FAR. Since there is virtually no foreign competition for the services provided by U.S. domestic airports, there is expected to be no impact on trade opportunities for either U.S. firms overseas or foreign firms in the United States.

Reporting and Recordkeeping

The requirements in the current regulations (Part 107) for an airport operator to submit an airport security program and amendments to the FAA for approval were approved by the Office of Management and Budget (OMB) under Control No. 2120-0075. Pursuant to this final rule, the FAA forwarded an amendment to Control No. 2120-0075 to OMB in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511). OMB approved the FAA's amendment of Control No. 2120-0075 on January 3, 1989.

Federalism Implications

The FAA believes that airport operators and sponsors will not be unduly burdened by the requirements of the final rule based on (1) the availability of AIP funding; (2) potential lower costs associated with alternative systems, methods, or procedures; and (3) the extended implementation schedule providing amortization of installations costs. On these bases, the FAA has determined that this regulation will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, preparation of a Federalism assessment is not warranted.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not major under Executive Order 12291. In addition, it is certified that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act of 1980. Because of the substantial public interest resulting from Notice No. 88-6,

this rule is considered significant under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation of the rule, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT".

List of Subjects in 14 CFR Part 107

Transportation, Air safety, Safety, Aviation safety, Air transportation, Air carriers, Aircraft, Airports, Airplanes, Airlines, Aviation security, Secured areas.

The Amendment

Accordingly, Part 107 of the Federal Aviation Regulations (14 CFR Part 107) is amended as follows:

PART 107—AIRPORT SECURITY

1. The authority citation for Part 107 continues to read as follows:

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

2. By adding a new § 107.14 to read as follows:

§ 107.14 Access control system.

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

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

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

(1) By August 8, 1989, or by 6 months after becoming subject to this section, whichever is later, for airports where at least 25 million persons are screened annually or airports that have been designated by the Director of Civil Aviation Security. The amendment shall specify that the system, method, or procedure must be fully operational within 18 months after the date on which an airport operator's amendment to its approved security program is approved by the Director of Civil Aviation Security.

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

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

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

(d) Notwithstanding paragraph (c) of this section, an airport operator of a

newly constructed airport commencing initial operation after December 31, 1990, as an airport subject to paragraph (a) of this section, shall include as part of its original airport security program to be submitted to the FAA for approval a fully operational system, method, or procedure in accordance with this section.

Issued in Washington, DC, on January 3, 1989.

T. Allan McArtor,
Administrator.

[FR Doc. 89-279 Filed 1-4-89; 9:48 am]

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