

Subpart D—Threat and Threat Response

§ 108.301 Contingency plan.

Each aircraft operator shall adopt a contingency plan and shall:

(a) Implement its contingency plan when directed by the Administrator.

(b) Ensure that all information contained in the plan is updated annually and that appropriate persons are notified of any changes.

(c) Participate in an airport operator-sponsored exercise of the airport contingency plan or its equivalent, as provided in its security program.

§ 108.303 Bomb or air piracy threats.

(a) *Flight: Notification.* Upon receipt of a specific and credible threat to the security of a flight, the aircraft operator shall—

(1) Immediately notify the ground and in-flight security coordinators of the threat, any evaluation thereof, and any measures to be applied;

(2) Ensure that the in-flight security coordinator notifies all crewmembers of the threat, any evaluation thereof, and any measures to be applied; and

(3) Immediately notify the appropriate airport operator.

(b) *Flight: Inspection.* Upon receipt of a specific and credible threat to the security of a flight, each aircraft operator shall attempt to determine whether or not any explosive or incendiary is present by doing the following:

(1) Conduct a security inspection on the ground before the next flight or, if the aircraft is in flight, immediately after its next landing.

(2) If the aircraft is on the ground, immediately deplane all passengers and submit that aircraft to a security search.

(3) If the aircraft is in flight, immediately advise the pilot in command of all pertinent information available so that necessary emergency action can be taken.

(c) *Ground Facility.* Upon receipt of a specific and credible threat to a specific ground facility at the airport, the aircraft operator shall:

(1) Immediately notify the appropriate airport operator.

(2) Inform all other aircraft operators and foreign air carriers at the threatened facility.

(3) Conduct a security inspection.

(d) *Notification.* Upon receipt of any bomb threat against the security of a flight or facility, or upon receiving information that an act or suspected act of air piracy has been committed, the aircraft operator also shall notify the Administrator. If the aircraft is in airspace under other than U.S. jurisdiction, the aircraft operator shall also notify the appropriate authorities of the State in whose territory the aircraft is located and, if the aircraft is in flight, the appropriate authorities of the State in whose territory the aircraft is to land. Notification of the appropriate air traffic controlling authority is sufficient action to meet this requirement.

§ 108.305 Security Directives and Information Circulars.

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

(b) Each aircraft operator required to have an approved aircraft operator security program shall comply with each Security Directive issued to the aircraft operator by the Administrator, within the time prescribed in the Security Directive for compliance.

(c) Each aircraft operator that receives a Security Directive shall—

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

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

(d) In the event that the aircraft operator is unable to implement the measures in the Security Directive, the aircraft operator shall submit proposed alternative measures and the basis for

submitting the alternative measures to the Administrator for approval. The aircraft operator shall submit the proposed alternative measures within the time prescribed in the Security Directive. The aircraft operator shall implement any alternative measures approved by the Administrator.

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

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

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

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

PART 109—INDIRECT AIR CARRIER SECURITY

Sec.

109.1 Applicability.

109.3 Security program.

109.5 Approval of security programs and amendments.

AUTHORITY: 49 U.S.C. 106(g), 5103, 40113, 40119, 44701-44702, 44705, 44901-44905, 44907, 44913-44914, 44932, 44935-44936, 46105.

§ 109.1 Applicability.

(a) This part prescribes aviation security rules governing each air carrier, including each air freight forwarder and each cooperative shippers' association, engaged indirectly in air transportation of property;

(b) For the purposes of this part, *property* means any package cargo.

[Doc. No. 19840, 44 FR 72345, Dec. 13, 1979]

§ 109.3 Security program.

(a) Each indirect air carrier shall adopt and carry out a security program that—

(1) Is designed to prevent or deter the unauthorized introduction of any explosive or incendiary device into any package cargo intended for carriage by air;

(2) Is in writing and signed by the carrier or any person delegated authority in this matter;

(3) Includes a system of security safeguards acceptable to the Administrator; and

(4) Has been approved by the Administrator.

(b) Each indirect air carrier shall maintain at least one complete copy of its security program at its principal business office, and a complete copy or the pertinent portions of its security program or appropriate implementing instructions at each office where package cargo is accepted, and shall make those documents available for inspection upon request of any Civil Aviation Security Special Agent.

(c) Each indirect air carrier shall—

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

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

[Doc. No. 19840, 44 FR 72345, Dec. 13, 1979, as amended by Amdt. 109-1, 54 FR 39293, Sept. 25, 1989; Amdt. 109-3, 62 FR 13744, Mar. 21, 1997]

§ 109.5 Approval of security programs and amendments.

(a) Each indirect air carrier shall submit its security program to the Administrator for approval. Each carrier engaged in the air transportation of property before December 13, 1979, shall submit its program no later than January 14, 1980. Each carrier not engaged in air transportation or intrastate air transportation of property before December 13, 1979, shall submit its program at least 30 days before the date it intends to engage in that transportation.