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DATE 10/16/81

ADVISORY CIRCULAR



DEPARTMENT OF TRANSPORTATION Federal Aviation Administration Washington, D.C.

FAR GUIDANCE MATERIAL

Subject: SECURITY RULES - CARRIAGE OF WEAPONS AND ESCORTED PERSONS

1. <u>PURPOSE</u>. This circular provides information and guidance for the implementation of Sections 108.11 and 108.21 of 14 CFR 108, Airplane Operator Security, concerning the carriage of weapons and the carriage of passengers under the control of armed law enforcement escort(s). Previously, these requirements were set forth in Sections 121.584 and 121.585 of 14 CFR 121, but were removed from that part and restated in FAR Part 108 in order to consolidate security regulations and thereby facilitate public access to same.

FAR Part 108 was published in the Federal Register, Volume 46, No. 10, January 15, 1981, effective September 11, 1981.

2. <u>CANCELLATIONS</u>. AC 121-18A, dated October 10, 1978, Subject: Aviation Security - Carriage of Weapons and Escorted Persons, is cancelled.

3. <u>APPLICABILITY</u>. Minor changes in the applicability of Sections 121.584 and 121.585 have been brought about by their restatement in FAR Part 108. These changes result from a new definition of a "certificate holder," flexibility of economic authorities issued operators by the Civil Aeronautics Board (CAB), and a limitation on operating certificates issued by FAA in accordance with Special Federal Aviation Regulation (SFAR) No. 38. The basic factors involved are discussed below:

a. <u>New Definition</u>. The key to applicability is the definition of a "certificate holder," defined in FAR Part 108 as "...a person holding an FAA operating certificate when that person engages in scheduled passenger or public charter operations or both." Scheduled passenger and public charter definitions are set forth in Section 108.3. These types of operations where screening is performed (and, in some cases, where no screening is performed) are governed by the



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sections of FAR Part 108 dealing with the carriage of firearms and persons under armed escort.

b. <u>Flexibility of Economic Authority</u>. Following implementation of the Airline Deregulation Act of 1978, the CAB liberalized its policies and granted broader economic authority to air taxis (commuters) operating under 14 CFR 135 whereby they could conduct operations similar to those previously conducted only by holders of Certificates of Public Convenience and Necessity (CPON). As a result, commuter certificate holders began using airplanes similar to those formerly used only by CPON holders without being subject to full security requirements. To ensure consistent application of FAA's security rules while achieving a level of security necessary to meet the existing threat, FAA restated security screening requirements in FAR Part 108 and based such requirements on airplane seating configuration instead of the type of economic authority granted the operator by the CAB.

c. Operating Certificates. Prior to the issuance of SFAR No. 38 in 1978, FAA issued a variety of operating certificates (domestic, flag, supplemental, commercial, air travel club, etc.) which facilitated application of specific security requirements to specific types of operations. Issuance of SFAR No. 38, authorizing only two types of certificates (Air Carrier Operating Certificate and Operating Certificate), eliminated the feasibility of applying security rules to different types of operations. Thus, it became appropriate and necessary to apply passenger screening and other security requirements based on airplane seating configuration and the availability of departure information to the traveling public.

4. <u>BACKGROUND</u>. Significant factors leading to the current statement of requirements in FAR Part 108 governing the carriage of firearms and persons under armed escort are restated herein for the benefit of new operators or persons who may not be familiar with such factors:

a. Several years ago, the FAA observed that a large number of hijacking incidents created a potentially dangerous situation with respect to persons carrying weapons aboard aircraft. Persons legally armed often were not made aware of the presence of other legally armed persons on board the same aircraft. Moreover, these persons were frequently escorting prisoners, whose presence required additional security measures. Furthermore, there were instances when inadequate identification procedures resulted in the carriage of deadly or dangerous weapons by persons not authorized to do so. Such inadequate procedures have disrupted law enforcement missions in which the officer's anonymity was esse. ial to success, (uninformed security officers or employees of a certificate holder questioned the officer's authority to carry a weapon, after he had already cleared the certificate holder's security procedures).

b. In an effort to eliminate the above problems and to achieve standardization of procedures for the carriage of weapons and the air transportation of escorted persons and their armed escorts, a Notice of Proposed Rulemaking (NPRM) on this subject was published in the Federal Register July 27, 1973. After considering the comments in response to the NPRM and the subsequent enactment by Congress of Public Eaw 93-366 on August 5, 1974, which, among other things, amended Section 902(1) of

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the Federal Aviation Act of 1958, FAA issued FAR Amendment 121-118 on April 12, 1975. Following that issuance, administrative experience indicated that minor changes were needed in these rules. These changes, accomplished by Amendment 121-142 which became effective April 24, 1978, set forth additional requirements concerning the carriage of firearms in checked baggage, such as elimination of the need to transport shotguns and sports rifles in locked containers, adding the requirement to secure handguns in locked containers, and establishment of the requirement to declare firearms in checked baggage. An additional amendment was issued with an effective date of March 31, 1980, removing prohibitions against carriage of weapons aboard civil aircraft by military personnel provided the aircraft is under charter or contract to the armed forces of the Government of the United States and involves only full plane loads of military personnel.

5. <u>DISCUSSION</u>. Certificate holders should include the following information in their security programs, manuals, or internal policy documents to insure that their personnel are trained and familiar with regulatory requirements regarding carriage of firearms and persons traveling under armed escort. The pertinent FAR sections are discussed below:

a. Section 108.11(a) identifies persons that may be authorized to carry deadly or dangerous weapons aboard airplanes operated by certificate holders where screening is required and further prescribes procedures that must be followed for such carriage. It also clarifies the fact that in addition to officials or employees of the United States and officials or employees of a state or a political subdivision of a state or municipality, others may be authorized to carry weapons when a need exists during the flight. However, it restricts the carriage of weapons by any person to only those occasions where it is necessary for an authorized person to have a weapon accessible in connection with the performance of duty during that period from the time it would otherwise have been placed in checked baggage until such time as it would have been returned to the individual after deplaning. In addition, any person who is authorized to carry a weapon aboard a certificate holder's aircraft other than an official or employee of the United States, or a state or political subdivision of a state or municipality must have successfully completed a course of training in the use of firearms acceptable to the Administrator. This section also prohibits the certificate holder from serving an alcoholic beverage to a person having a dangerous or deadly weapon accessible to him or her and further prohibits any such person from drinking any alcoholic beverage while aboard an aircraft operated by the certificate holder. It should be noted that crewmembers including the captain must comply with this section.

b. <u>Section 108.11(b)</u> restates for certificate holders not required to perform screening, the requirements embodied in FAR Section 135.119. Persons authorized to carry firearms on such airplanes include officials of a municipality or state or of the United States and crewmembers and other persons authorized by the certificate holder.

c. Section 108.11(c) specifies that no certificate holder may knowingly permit any person to transport, nor may any person transport or tender for transport, any

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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. <u>Section 108.11(d)</u> establishes procedures for carriage of <u>unloaded</u> firearms in checked baggage. These procedures include a passenger declaration to the certificate holder that the firearm is unloaded and assurance that the firearm is carried in a container the certificate holder considers appropriate. Many such containers manufactured specifically for firearms transportation are commercially available. The procedures further provide that where the firearm is other than a shotgun or rifle, the baggage in which it is carried must be locked with the passenger retaining the key or combination. All such baggage must be carried in an area inaccessible to passengers and never may be carried in the flight crew

e. <u>Section 108.11(e)</u> specifies that 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. Section 108.21 provides for the carriage of persons in the custody of armed law enforcement officer(s). It specifies certain requirements which must be met before and during such carriage. This section also prohibits certificate holders from serving any alcoholic beverage to any person(s) aboard its aircraft who is (are) under armed escort or to those persons having a weapon accessible to them in connection with official duties while aboard the aircraft. This section does not apply to the carriage of passengers under voluntary protective escort.

6. <u>PROCEDURES FOR CARRIAGE OF WEAPONS ABCARD AIRCRAFT</u>. Persons authorized to carry weapons fall into two groups. Those in the first group are specified in FAR Section 108.11(a)(1)(i). They are Federal (including military), state, municipal, county, and political subdivision officials and employees. These persons are identified in this circular as Law Enforcement Officers (LEO's). The second group encompassed by FAR Section 108.11(a)(1)(ii) are persons such as domestic and foreign guards (Brinks, Pinkerton, etc.) referred to in this circular as persons other than LEO's. An individual in either group must need to have a weapon accessible in the performance of official duty during that period of time from which it would have otherwise been placed in checked baggage until such time as it woul, have been returned after deplaning. Enclosed as Appendix 1 is a suggested form that can be used by the certificate holder to authenticate these requirements.

a. <u>General Procedures Applicable to All Armed Individuals</u>. During flight, should an incident occur (e.g., interference with crewmembers, inebriated individual, etc.) armed individuals should never take independent law enforcement action unless assistance is requested by the captain. Further, to meet regulatory requirements, an individual to be armed during flight must:

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(1) Be authorized to have the weapon.

(2) Notify the certificate holder of the need to have the weapon accessible in connection with the performance of duty during the period from the time the individual would otherwise have checked it until the time it would have been returned to the individual after deplaning.

(3) Notify the certificate holder of the flight on which the individual intends to have a weapon at least one hour prior to flight departure; or in an emergency, as soon as practicable.

(4) Present identification to the certificate holder by displaying credentials that include a clear full face picture, the individual's signature, and the signature of an authorizing official or the official seal of the individual's agency.

(5) Not drink any alcoholic beverage while aboard an airplane operated by a certificate holder.

b. <u>General Procedures Applicable to Certificate Holders</u>. Certificate holders should brief armed individuals that in the event of an incident while in flight (e.g., interference with crewmembers, inebriated individual, etc.) under no circumstances should any independent law enforcement action be taken by such individual unless requested by the captain. Further, to meet regulatory requirements, when a certificate holder carries individuals authorized to be armed, the certificate holder must ensure that:

(1) Prior to boarding, the armed individual is advised of its procedures for the carriage of a deadly or dangerous weapon aboard its airplane. This information may be provided on printed card(s).

(2) 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 aircraft. Discretion should be employed to protect the person's identity.

(3) The pilot in command and other appropriate crewmembers have been notified of the location of each armed person aboard the aircraft. In the event more than one armed person is aboard a flight, each armed person must be notified of the seat location of each other armed person(s).

Most certificate holders satisfy the above requirements by use of a form and discreet verbal advice regarding other armed persons. The form is read and signed by the armed individual and copies are distributed as necessary. To assure that interline transfer of armed individuals does not result in an unknown armed individual aboard, FAA suggests that additional copies of the form or a similar form be appended to the flight coupon(s) to be used for subsequent flight legs. This procedure works well and is endorsed by FAA.

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custody.

(4) No alcoholic beverage is served to an armed person or a person in $\frac{2}{3}$

c. <u>Procedures for Law Enforcement Officers (LEO's)</u>. For the purpose of this circular, LEO's are divided into two groups, Federal Law Enforcement Officers and other Law Enforcement Officials.

(1) Procedures for Federal Law Enforcement Officers. Each Federal law enforcement agency that anticipates a need for an authorized employee of that agency to carry a deadly or dangerous weapon in the cabin compartment of a certificate holder's airplane should submit to the FAA, Office of Civil Aviation Security, ATIN: Air Operations Security Division, ACS-100, a copy of their policy under which employees under their jurisdiction are required to be armed during flight. FAA will retain a copy of the policy for each Federal agency. A Federal law enforcement official who is authorized within the established policy of the employing agency to carry a weapon aboard a certificate holder's airplane is required to notify the certificate holder involved of the flight on which that person intends to be armed in accordance with the procedures set forth in subparagraph 6a above. The procedures of subparagraph 6a also apply to military public charter operations.

(2) Procedures for Other Law Enforcement Officials. Each officer with a requirement to carry a deadly or dangerous weapon in the cabin compartment of a artificate holder's airplane should provide a letter to the certificate holder hat specifies the circumstance(s) that create the need to be armed during the flight(s) being utilized. This letter should be on the letterhead of the jurisdiction employing the officer and signed by a supervisory official. Such a letter should specify the trip itinerary and include a designated period (flight legs) during which the need to be armed in flight will exist. The procedures of subparagraph 6a also apply.

d. <u>Procedures for Armed Persons Other Than LEO's</u>. The procedures in this paragraph apply to armed domestic guards (Brinks, Pinkerton, etc.). Armed persons other than LEO's must be authorized by the Adminstrator as well as by the certificate holder. The Administrator issues such authorizations when the persons to be authorized:

(1) Have satisfactorily completed, within the preceding twelve months, a course of training in the use of firearms acceptable to the Administrator. Courses of training conducted by or approved by law enforcement agencies (Federal, state, or local) are generally acceptable to the Administrator.

(2) Provide documentary evidence to the certificate holder that indicates satisfactory firearms course completion such as a certificte of completion signed by a supervisory law enforcement official of the jurisdiction in which the training was conducted.

(3) Have approval of the certificate holder and are recommended by name by e certificate holder to the FAA Principal Security Inspector (PSI) assigned. The

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PSI will review the documentation and determine if the need to carry firearms is justified. Approval(s) will be granted on a case-by-case basis for a period of time not greater than six months. Normally, the PSI will notify the certificate holder of the approval but should a PSI not be available, the Civil Aviation Security representative of the FAA region having geographic jurisdiction will handle the approval notice.

e. Procedures for Foreign Armed Escorts Accompanying Foreign Dignitaries. Occasionally, foreign dignitaries desire to travel on U.S. certificate holder airplanes accompanied by armed escorts provided by the foreign government involved or international organizations such as the United Nations. The procedure for obtaining FAA authorization as required by FAR Section 108.11(a)(1)(ii) for these escorts is for these individuals to submit through their government the names and itinerary of the traveler and all escorting personnel involved to the Department of State. The FAA may issue authorization for escorts who have been trained in the use of firearms within the preceding twelve months. The Department of State must be advised of such training and will, in turn, notify the Office of Civil Aviation Security, Intelligence and International Security Division (ACS-400), specifying that the escort has undergone the required training, the travel is official, and will provide the names and itinerary of all individuals involved. The Intelligence and International Security Division will complete the necessary coordination between the FAA, the certificate holder, and the Department of State. Authorization by FAA and certification by the State Department will only be made for flights between points in the United States. An exception may be made in the event an agreement has been reached between the State Department and the authorities of the foreign country in question.

f. <u>Procedures for Armed U.S. Federal Law Enforcement Officials Escorting</u> <u>Foreign Dignitaries and Accompanying Personnel</u>. Armed Federal law enforcement officials accompanying foreign dignitaries must provide air carriers with advance notification of their travel in accordance with FAR Section 108.11, and comply with other specific requirements specified therein. Should special assistance be required by the LEO, he may wish to contact the appropriate FAA region or Civil Aviation Security Field Office (CASFO) for assistance (Appendix 2).

7. PROCEDURES FOR ARMED LEO'S ESCORTING PERSONS IN THEIR CUSTODY ABOARD CERTIFICATE HOLDER AIRCRAFT (NOT APPLICABLE TO ARMED ESCORTS OF FOREIGN DIGNITARIES AND OTHER PERSONS UNDER PROTECTIVE OR VOLUNTARY ESCORT). Federal Aviation Regulations Section 108.21 contains certain specific procedures which must be followed by certificate holders and those <u>armed LEO's who are escorting persons in</u> their custody aboard airplanes for which screening is required. Procedures for armed escorts are in addition to those already incorporated as a part of this circular for LEO's traveling armed. No regulatory requirements exist in FAR Part 108 governing the escort of persons by unarmed individuals.

a. An armed law enforcement escort who has in custody a person being transported aboard an airplane for which screening is required is required to:

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(1) Notify the certificate holder at least one hour before departure, or in an emergency, as sook as practicable, of the identity of the escorted person and the flight on which that person will be carried.

(2) Determine and notify the certificate holder as to whether the escorted person is considered in a "maximum risk" category by the government entity having custody of the person. Two LEO's are required for the escort of one maximum risk category person and only one "maximum risk" person may be carried aboard an airplane. One LEO may escort no more than two persons in a risk category less than that of maximum risk. Where a question arises concerning risk category, the governmental entity responsible for the person in custody should be relied on for such a determination. (FAA believes that the determination of whether a person is considered a "maximum risk" is properly one to be made by the professional law enforcement organization having custody and no attempt should be made herein to provide a general definition.)

(3) Assure the certificate holder that the individual in custody has been searched and does not have on or about the individual's person or property any article which could be used as a deadly or dangerous weapon.

(4) Be equipped with adequate restraining devices to be used in the event that a determination is made that restraint of the person in custody is or becomes necessary. It should be noted that some certificate holders do not permit restraining devices to be used while in flight due to perceived safety/liability oncerns that might arise in the event of an incident or an accident. The escorting law enforcement jurisdiction and the certificate holder should have a clear understanding of this issue prior to initiation of the intended air travel.

(5) Assure that the escorted person is accompanied at all times and kept under surveillance.

(6) Be familiar with the requirements of the certificate holder.

b. Certificate holders who accept for transportation persons in the custody of armed escorts are required to:

(1) Board the escort(s) with the person(s) in custody before all other emplaning passengers board at the airport where the flight originates, and deplane them after all other passengers have left the airplane at destination.

(2) Have these persons seated in the rearmost available passenger seats that are neither located in any lounge area, nor located next to or directly across from an aircraft exit. Should the rearmost seats be in a "smoking" area and either the armed escort or the person being escorted indicates a problem with smoke, crewmembers should attempt to resolve the problem through clearing the adjacent seats/rows or converting the last several rows into a "no smoking" section or by other appropriate action.

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(3) Assure that at least one escort sits between the person in custody and any aisle.

(4) Carry no more than one person considered to be in a maximum risk category, and appropriate escorts, on an airplane carrying other passengers.

(5) Assure no food, beverages, or metal eating utensils are provided an escorted person unless authorized by the escort.

(6) Assure neither the escort(s) nor the person(s) in their custody are served any alcoholic beverage while aboard the certificate holder's aircraft.

8. CARRIAGE OF FIREARMS AND AMMUNITION IN CHECKED BAGGAGE.

a. Loaded Firearm. No person may transport or offer for transport nor may any certificate holder knowingly permit the transport of a loaded firearm in checked baggage under any conditions.

b. Unloaded Firearm. No person may transport or offer for transport nor may any certificate holder knowingly permit any person to carry a firearm in checked baggage unless the passenger notifies the certificate holder before checking the baggage that a firearm is in the checked baggage and that it is unloaded. The carrier must obtain a declaration either orally, or in writing, from the person that the firearm is not loaded as specified in paragraph 5d above. A sample form which may be used for this purpose is provided as Appendix 1 to this circular. It may be reproduced and used by the carriers in meeting this regulatory requirement which is set forth in Section 108.11. All firearms must be carried in containers suitable to the certificate holder for air shipment. When the firearm is other than one normally fired from the shoulder position, the container in which it is to be carried must be locked and the passenger must have the key or lock combination. Further, the passenger's name and address should be included inside the baggage. Checked baggage containing dangerous weapons must not be carried in the flight crew compartment or any area accessible to passengers. The topside or interior baggage bins on some smaller aircraft are considered acceptable for storage provided that such bins are secured. The certificate holder should contact FAA security representatives to assure that the test of "inaccessibility" is met when using small airplanes.

c. <u>Small Arms Ammunition</u>. Small arms ammunition must be packed in pasteboard or other inside boxes, or in partitions designed to fit snugly in the outside container, or must be packed in metal clips. The partitions and metal clips must be so designed as to protect the primers from accidental damage. The inside boxes, partitions, and metal clips must be packed in securely closed strong outside wooden or fiberboard boxes or metal containers as prescribed in 49 CFR 173.101.

9. <u>ACTION</u>. Organizations, agencies, and other persons affected by FAR Part 108 may obtain assistance and further information from the FAA, Office of Civil Aviation Security, the appropriate regional Civil Aviation Security Division, or the appropriate Civil Aviation Security Field Office having jurisdiction over the geographic areas involved. Certificate holders should call upon assigned FAA

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Principal Security Inspectors (PSI's) where assistance or additional information is needed. Alleged violations of the above cited requirements should be reported to FAA regional Civil Aviation Security Field Offices having geographic responsibility for investigation and discosition as appropriate. A list of these offices is enclosed as Appendix 2.

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Director of Civil Aviation Security

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NOTICE TO THED INDIVIDUALS	CHECK ONE: (LEO means Law Enforcement Officer)
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REGIONS

TETATAMARA AL

CAFO/CASFU's

FAA ALASKAN REGION

James Derry, Manager Civil Aviation Security Division, AAL-700 701 C Street, P.O. Box 14 Commercial: 907-271-5557 FIS: 8-907-271-5557

Civil Aviation Security Field Office - ANC CASFO P.O. Box 6478 Anchorage, Alaska 99502 Commercial: 907-243-4338 FTS: 8-907-271-3420

FAA CENTRAL REGION

Donald T. Beiman, Manager Civil Aviation Security Division, ACE-700 601 East 12th Street, Room 1545 Kansas City, Missouri 64106 Commercial: 816-374-3901 FTS: 8-758-3901 Civil Aviation Security Field Office - MCI CASFO 10220 N. Executive Hills Blvd. Room 650 Kansas City, Missouri 64153 Commercial: 816-891-7557 FTS:

Civil Aviation Security Field Office - STL CASFO P.O. Box 10477 Lambert-St. Louis Int'l Airport St. Louis, Missouri 63145 Commercial: 314-425-7050 FTS: 8-279-7050

FAA BASTERN REGION

Bector Gonzalez, Manager Civil Aviation Security Division, AEA-700 Federal Building #111 JFK International Airport Jamaica, New York 11430 Commercial: 718-917-1252 FTS: 8-667-1252

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EASTERN REGION (Continued)

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FAA NEW ENGLAND REGION

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FAA WESTERN-PACIFIC REGION

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