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DEPT. OF TRANSPORTATION
DOCKETS

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March 25, 2002

Docket Management System
U.S. Department of Transportation
Docket No. TSA-2002-11602 -10
Room PL401
400 Seventh Street, SW
Washington, DC 20590-0001

Dear Sir or Madame:

Thank you for the opportunity to provide comments on the final rule of 49 CFR Part 1542 – Airport Security (Docket No. TSA-2002- 11602.)

The Airports Council International – North America (ACI-NA) is a membership organization representing approximately 150 State, regional and local governing bodies that own and operate the principal airports served by scheduled air carriers in the United States and Canada. ACI-NA member airports handle approximately 98 percent of the domestic and virtually all of the international air passenger traffic and cargo traffic in North America. The Association also represents a wide variety of businesses that provide products and services to the air transportation industry.

We offer the following comments for the Transportation Security Administration's (TSA) consideration and would appreciate the opportunity to work with TSA on any of the requests and action items outlined below.

1542.3 Airport Security Coordinator.

1542.3 (c) does not allow an airport operator to designate an airport security coordinator (ASC) until the intended ASC has completed subject matter training specific to ASC responsibilities contained within the airport security program (ASP). ACI-NA is concerned that TSA provides no training criteria or curriculum for airport operators to use with ASCs. As such, ACI-NA advocates that TSA either work with industry to develop an appropriate training curriculum in advance of the July 17, 2003 deadline or delay the deadline until such curriculum is available.

1542.5 Inspection Authority.

1542.5 (c) allows TSA to enter and be present in non-public areas (AOA, SIDA, Secure Areas) of the airport without airport identification or access media. No guidance is provided to airport operators as to proper challenge procedures when individuals with airport issued media recognize an individual without proper media, i.e., TSA employee. In addition, no guidance is provided to airports as to the approved method and media are for TSA access authority. ACI-NA requests TSA to work with industry to develop appropriate challenge procedures for use by industry with TSA employees conducting business on airport property.

1542.111 Exclusive Area Agreements

ACI-NA appreciates that TSA continues to allow airports and air carriers to enter into voluntary exclusive area agreements. Again, to maintain consistency within the airport system, ACI-NA urges TSA to issue to industry the *Exclusive Area Agreement Guidance Document* developed jointly by ACI-NA and the FAA Office of Civil Aviation Security, Policy & Planning. This document incorporates all sections outlined in the regulation and provides comprehensive guidance on best practices to maintain the integrity of the exclusive area and the agreement.

1542.113 Airport Tenant Security Programs.

ACI-NA would welcome the opportunity to work with TSA to develop a *Tenant Security Agreement Guidance Document* that industry could use to implement these agreements and maintain consistency across the aviation system.

In addition, ACI-NA would appreciate TSA's clarification as to whether or not existing security agreements developed and entered into by airport operators and their cargo tenants are being replaced by exclusive area agreements and/or tenant security programs.

1542.209 Fingerprint-based Criminal History Records Checks (CHRC).

This section of the final rule does not provide guidance to the airport operator as to what procedure to follow for an individual with an unclassifiable fingerprint. Many individuals employed as mechanics or custodians have damaged or scarred fingertips after years of working with industrial chemicals and /or solvents as a condition of their employment. ACI-NA advocates that TSA work with the Federal Bureau of Investigation to provide quick resolution at what is becoming an increasingly great problem for the industry.

In addition, no direction was provided to airport operators as to whether or not a 5-year employment investigation is still required to issue limited unescorted access authority. Since the Aviation and Transportation Security Act (ATSA) requires all individuals working in a non-public area of the airport to undergo a CHRC, the additional 5-year

check appears redundant and unnecessary. A CHRC for any level of unescorted access should be more than sufficient to meet the intent of the ATSA and the consequent final rule for airport security.

ACI-NA asks for TSA reconsideration of 1542.209 (m) (1), which requires airport operators to authorize unescorted access authority for an employee of Federal, state, or local government (including a law enforcement officer) who, as a condition of employment, was subjected to an employment investigation that includes a criminal records check. First, this does not require the individual to undergo a 10-year CHRC as required in 1542.209 (b) rather only a vaguely defined “criminal records check.” Of greater concern, the provision would force airport operators to grant unescorted access authority to an increased population, thereby diluting the airport’s authority to issue unescorted access authority because the regulation forces airports to accept certification of individuals without an airport verification process specific to an individual’s criminal history. This would enlarge the population in the non-public areas of the airport, creating an increased risk of safety violations and possibly reducing the security of non-public areas. For example, many airports operate as a branch of a municipal government. As such, many municipalities require employees to undergo employment investigations and criminal records checks. This would be acceptable if law enforcement officers of a municipality underwent a criminal records check that required the same specifications as a CHRC. As the regulation currently reads, will an airport be forced to issue unescorted access authority to every municipal employee because the employee underwent the checks as a condition of employment, even if this individual was not hired to work for the airport? TSA needs to re-consider this provision, so as to decrease the population with access to non-public areas of the airport, enhance safety and increase security.

We appreciate the opportunity to comment of 49 CFR 1542, Airport Security, and welcome the opportunity to work with the TSA on this initiative and future endeavors.

Sincerely,



Dawn E. Lucini
Manager, Regulatory Affairs
Airports Council International – North America