accomplished for Canadian flightcrew members as a result of that country's program. The approach of the Canadian system, or similar systems in use by other countries, could result in the facilitation of using documentary evidence of employment verification.

The FAA agrees that the Act limits employment investigations to the extent allowable by the law in the foreign country. However, if the employment history verification or other aspects of the access investigation could not be completed as a result of another country's law, this would trigger a need to conduct the criminal history records check.

The problem of temporary employees is not specific or limited to foreign carriers. This rule would apply to any individual applying for unescorted access privileges. Considering the short period of time it takes to perform the employment history verification portion of the access investigation (which would authorize most individuals for unescorted access authority), the FAA contends this is not an unreasonable requirement; moreover, if the assignment is of short duration, escorting may be the simplest solution.

Transfer of Privilege

Two commenters believe that an individual who has been continuously employed by an air carrier, airport operator, or non-air-carrier tenant should be authorized unescorted access without having to be continuously employed in a position requiring unescorted access. Another commenter recommends that the FAA implement a uniform process for accepting transfers of individuals, so that there will be nationwide consistency in applying this provision. ATA expresses concern that the authority to grant unescorted access privileges to an individual transferring from one air carrier to another should be the exclusive responsibility of the air carrier. AACI and AAAE also question whether individuals transferring their authority for unescorted access must receive SIDA training at the new location.

FAA Response: This final rule adopts the proposal included in the SNPRM that provides an exception to the access investigation requirements for individuals who have already been subject to one. However, this rule retains the requirement that an individual transferring unescorted access privileges must have been continuously employed in a position requiring unescorted access since first being authorized unescorted SIDA access. The requirement to be continuously authorized should not

present a burden for companies transferring individuals in positions within a company.

The rule does not attempt to establish uniform procedures for accepting transfers; rather, the rule sets the minimum requirement for continuous employment in a position with unescorted access privileges. The FAA expects the airport operator and the air carrier to cooperate in determining the process for an individual transferring from one carrier to another.

This rule does not affect the regulatory requirement for SIDA training. Under § 107.25 and associated FAA policy, individuals who have been subject to SIDA training who subsequently transfer their unescorted access authority must receive sitespecific SIDA training at the new airport.

Individuals Subject To Investigation By Customs

One commenter suggests that the FAA coordinate with the U.S. Customs Service on its pending access rule for Customs Service security areas of an airport. The commenter's concerns focus on the effect on operations, costs, and possible duplication of the two rules.

FAA Response: This rule permits an airport operator to accept the background checks performed by the U.S. Customs Service to meet the FAA's access investigation requirement. Accepting the background investigation by Customs avoids a redundant check, while providing an equivalent or higher level of security for individuals with unescorted access. Because the Customs check is more extensive (it includes misdemeanor theft convictions) than that contained in this final rule, failure to obtain access authority to the Customs area would not preclude an individual from obtaining unescorted access to the SIDA, but would require the individual to be subjected to an access investigation under this rule.

Section 107.31(f)—Investigations by Air Carriers and Airport Tenants

Eight commenters address issues concerning the airport operator's acceptance of air carrier employment investigations and non-air carrier tenants' employment history verifications.

ATA notes that in the SNPRM preamble an airport operator is given the latitude to expand the scope of the employment history verification to cover areas beyond that required under the proposal. ATA urges the FAA to limit an airport operator's authority to impose additional verification

requirements on air carriers. It recommends that the final rule clearly state that the air carrier is exclusively responsible only for fulfilling the employment investigation requirements of § 108.33.

ATA and RAA express concern that the SNPRM preamble explanation of § 107.31(F) allows an airport operator discretion to accept certification from an air carrier. These commenters recommend that the process be mandatory thus requiring the airport operator to accept their checks. The carriers have concerns that airport operators may require employment investigations beyond that necessary to meet the regulatory requirement.

One commenter states that an airport operator should be able to rely on certification by any tenant employer for the employment verification. Another commenter believes that the authority to certify employees should extend to part 129 carriers who operate in accordance with an exclusive area agreement and to indirect air carriers subject to part 109.

Three commenters oppose the requirement that the airport operator be responsible for the criminal history records check of all airport tenants other than U.S. air carriers and two commenters support this requirement. One commenter argues that the results of any criminal investigation would be most beneficial to the direct employer, as would information concerning arrests with no disposition. One commenter opposes any delegation to air carriers of the responsibility for criminal history records checks of their contractors because many of these contractors serve more than one air carrier. According to this commenter, conducting criminal history records checks on contractors should be the responsibility of the airport operator.

FAA Response: This final rule adopts the procedures proposed in the SNPRM for accepting air carrier access investigations and non-air-carrier tenant employment history verifications. Regarding the expansion of the employment history verification requirements, this rule establishes the guidelines for an acceptable verification. Each airport operator will specify these requirements in its security program subject to FAA approval. The FAA will limit approval to the employment history verification requirements outlined in this rule.

Under § 108.33, air carriers perform the access investigation for their employees. Therefore, it is logical that an airport operator would accept the air carrier's investigation without placing any additional requirements on the carrier. An airport operator's receipt of