requirement. However, the FAA expects that the regulated parties will develop local procedures to implement this provision. In such cases, the employer is likely to be aware of the circumstances and take immediate action to revoke the access authority.

Any individual failing to report a disqualifying conviction or to surrender his or her SIDA identification credential issued under this section is subject to possible FAA enforcement action, including civil penalty liability.

Section 107.31(m)—Limits on Dissemination of Results

The FAA received no comments on this section.

Note: As required by the Act, this rule also includes limits on the dissemination of the criminal history information. The FAA limits distribution of such information to: (1) the individual to whom the record pertains or someone authorized by that person; (2) the airport operator; and (3) the individuals designated by the Administrator, e.g., FAA special agents.

Section 107.31(n)—Recordkeeping

Six commenters address the requirements for maintaining records. ATA requests that the final rule clearly require maintaining only that information necessary to satisfy the regulation requirements. ATA is concerned that FAA inspectors may interpret the record provision as providing discretion to require the maintenance of information beyond that which is necessary to meet the requirements set forth in the SNPRM.

Two airport operators express concerns over the administrative burden of maintaining all employment history records of non-air-carrier tenants. One commenter agrees that maintaining the criminal history records checks is the airport operator's responsibility and that this should not be a burden to airports because they already keep confidential information.

FAA Response: The FAA has determined that the airport or air carrier shall maintain a written record for individuals granted unescorted access authority that includes specific information on the employment history verification and the results of an FBI criminal history records check, if conducted. The burden on airport operators to maintain records for tenants already exists because airport operators maintain records for individuals who are currently issued identification media. This rule standardizes the information to be maintained to include the results of the FBI criminal history records check, where applicable. The airport tenant can continue to maintain

the more comprehensive record and associated paperwork of the employment history verification.

The FAA has modified this section from that proposed in the SNPRM to clarify that an airport operator need not maintain comprehensive records and documentation for air carrier employees. As discussed under §107.31(f), the record can be a certification from the air carrier that the access investigation was performed. The airport operator would have no further recordkeeping requirements related to air carrier employees. Furthermore, in order to permit the destruction of FBI criminal history records check results and minimize storage problems for airport operators and air carriers, the recordkeeping requirements allow for the retention of only a certification that the check was completed and revealed no disqualifying convictions. Another minor editorial change in this regard was the deletion of the reference to airport tenants providing certification of criminal history records check results since these parties are not authorized to request such checks.

This final rule contains two recordkeeping requirements: (1) A record indicating that the applicant's 10-year employment history has been reviewed and the most recent 5-year employment history verified, and (2) a copy of the results of the criminal history record check received from the FBI or certification of same, where appropriate. The airport operator can accept written certification from airport tenants that the employment history was reviewed and the verification was performed. However, the airport tenant should maintain a record of calls made, plus a record of correspondence or any other documents received. The tenant must make this information available to the airport operator when requested by the FAA for inspection purposes.

For individuals subject to a criminal history records check, the records received from the FBI must be maintained in a manner that prevents the unauthorized dissemination of its contents.

The airport operator must maintain a written record until 180 days after termination of the individual's authority.

Section 108.33—Employment Verification

This rule authorizes air carriers to perform the access investigations for its employees and contractors in a manner similar to that required under § 107.31. The air carrier may provide a general certification to an airport operator under § 107.31(f) that the access investigation was performed as part of issuing identification credentials to its employees. When an individual air carrier employee or its contractor employee is investigated by the carrier for receipt of airport-issued identification media, the air carrier must provide the airport operator with certification that the investigation was performed for each employee.

The requirements for an air carrier performing the access investigation are identical to those required of an airport operator.

Regulatory Evaluation Summary

Changes to Federal regulations are required to undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. With respect to this rule, the FAA has determined that it: (1) is "a significant regulatory action" as defined in section 3 (f)(4) of the Executive Order; (2) is significant as defined in the Department of Transportation's **Regulatory Policies and Procedures; (3)** will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. Since the rule is not significant under section 3 (f)(4) of the Executive Order, a full regulatory analysis, which includes the identification and evaluation of costreducing alternatives to this rule, has not been prepared. Instead, the agency has prepared a more concise analysis of this rule which is presented in the following paragraphs.

The expected costs of the rule consist of two parts: (1) the cost of enhancing the employment history verification process; and (2) the cost of conducting a criminal history records check on applicants whose employment verification triggers it. Employers may avoid the latter cost by simply choosing to end the employment process for the individual in question.

First-year costs for the industry will range from \$0.5 to \$1.4 million. Airports, air carriers, and other airport tenants will incur these costs. The cost of the rule comes from the time necessary to complete an estimated 64,000 employment history verifications by non-air-carrier airport tenants and from an estimated 970 to 1,940 criminal