(1) An air carrier subject to § 108.33 of this chapter that the air carrier has complied with § 108.33 (a)(1) and (a)(2) for its employees and contractors; and

(2) An airport tenant other than a U.S. air carrier that the tenant has complied with paragraph (b)(1) of this section for its employees.

(g) The airport operator must designate the airport security coordinator to be responsible for:

 Reviewing and controlling the results of the access investigation; and

(2) Serving as the contact to receive notification from an individual applying for unescorted access of his or her intent to seek correction of his or her criminal history record with the FBI.

(h) Prior to commencing the criminal history records check, the airport operator must notify the affected individuals.

(i) The airport operator must collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints must be recorded on fingerprint cards approved by the FBI for this purpose;

(2) The fingerprints must be obtained from the individual under direct observation by the airport operator;

(3) The identity of the individual must be verified at the time fingerprints are obtained. The individual must present two forms of identification media, one of which must bear his or her photograph;

(4) The fingerprint card must be forwarded to Federal Aviation Administration, 800 Independence Ave., S.W., Washington, D.C. 20591 (ATTN: ACO-310, Access Processing); and

(5) Fees for the processing of the criminal checks are due upon application. Airport operators shall submit payment through corporate check, cashier's check or money order made payable to "U.S. FAA," at the rate of \$24.00 for each fingerprint card. Combined payment for multiple applications is acceptable.

(j) In conducting the criminal history records check required by this section, the airport operator must ascertain information on arrests for the crimes listed in paragraph (b)(2) of this section for which no disposition has been recorded to make a determination of the outcome of the arrest.

(k) The airport operator must:

(1) At the time the fingerprints are taken, notify the individual that a copy of any criminal history record received from the FBI will be made available if requested in writing.

(2) Prior to making a final decision to deny authorization for unescorted

access, advise the individual that the FBI criminal history record discloses information that would disqualify him or her from unescorted access authorization and provide each affected individual with a copy of his or her FBI record if it has been requested. The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in the record before any final access decision is made, subject to the following conditions:

(i) Within 30 days after being advised that the FBI criminal history record discloses disqualifying information, the individual must notify the airport operator, in writing, of his or her intent to correct any information believed to be inaccurate. If no notification is received within 30 days, the airport operator may make a final access decision.

(ii) Upon notification by the individual that a record has been corrected, the airport operator must obtain a copy of the revised FBI record prior to making a final access decision.

(3) Notify an individual that a final decision has been made to grant or deny authorization for unescorted access.

(l) Any individual authorized to have unescorted access privilege to the areas identified in paragraph (a) of this section who is subsequently convicted of any of the crimes listed in paragraph (b)(2) of this section must report the conviction and surrender the SIDA identification medium within 24 hours to the issuer.

(m) Criminal history record information provided by the FBI must be used solely for the purposes of this section, and no person shall disseminate the results of a criminal history records check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) The airport operator; or(3) Others designated by the Administrator.

(n) The airport must maintain a written record for each individual until 180 days after the termination of the individual's authority for unescorted access. The records for each individual subject to:

(1) The access investigation must include: the application, the employment verification information obtained by the employer, the names of those from whom the employment verification information was obtained, the date the contact was made, or certification of same from air carriers or airport tenants, and any other information as required by the Assistant Administrator for Civil Aviation Security, and

(2) A criminal history records check must include the results of the records check, or a certification by the airport operator or air carrier that the check was completed and did not uncover a disqualifying conviction. These records must be maintained in a manner that protects the confidentiality of the employee, which is acceptable to the Assistant Administrator for Civil Aviation Security.

## PART 108—AIRPLANE OPERATOR SECURITY

4. The authority citation for Part 108 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40102, 40113, 40119, 44701–44713, 44901–44915, 44931–44937, 46105.

5. Part 108 is amended by adding a new § 108.33 to read as follows:

## §108.33 Access investigation.

(a) On or after January 31, 1996 for each employee or contractor employee covered under a certification made to an airport operator pursuant to § 107.31(f) of this chapter, the certificate holder must ensure that:

(1) The individual has satisfactorily undergone an employment history review covering the past 10 years and verification of the 5 years preceding the date the access investigation is initiated as provided in paragraph (b) of this section; and

(2) The results of the access investigation do not disclose that the individual has been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years ending on the date of such investigation, of a crime involving any of the following crimes enumerated in paragraphs (b)(2) (i) through (xxv) of this section. Where specific citations are listed, both the current citation and the citation that applied before the statutes are recodified in 1994 are listed.

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violation, 49 U.S.C. 46306 [formerly 49 U.S.C. App. 1472(b)];

(ii) Interference with air navigation, 49 U.S.C. 46308, [formerly 49 U.S.C. App 1472(c)];

(iii) Improper transportation of a hazardous material, 49 U.S.C. 46312, [formerly 49 U.S.C. App 1472(b)(2)];

(iv) Aircraft piracy, 49 U.S.C. 46502, [formerly 49 U.S.C. App 1472(i)];

(v) Interference with flightcrew members or flight attendants, 49 U.S.C. 46504, [formerly 49 U.S.C. App 1472(j)];

(vi) Commission of certain crimes aboard aircraft in flight, 49 U.S.C.