

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

(1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).

(2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).

(3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.

(4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.

(5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

(i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or

(ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



Transportation
Security
Administration

By Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. §
114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49
U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C.
§ 114(r)

On (b)(3):49 U.S.C. §
114(r) the Transportation Security Administration (TSA) served upon
you and the Federal Aviation Administration an Initial Notification of Threat Assessment
pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and
materials available to TSA, I have determined that you pose, or are suspected of posing, a
security threat. Accordingly, TSA is concurrently notifying the Federal Aviation
Administration (FAA) of the determination that you pose, or are suspected of posing, a
security threat, and requesting the FAA to revoke all of your airman certificates, ratings
or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49
C.F.R. § 1540.117.

Sincerely,

A handwritten signature in cursive script that reads "Gale Rossides for".

Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



**Transportation
Security
Administration**

By Registered Mail - Return Receipt Requested

(b)(3):49 U.S.C. §
114(r)

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number 003110063

Dear (b)(6);(b)(3):49
U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

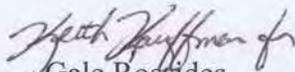
Constance Genter
Senior Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,


Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration

enc.

(1) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

- (1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).
- (2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).
- (3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.
- (4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.
- (5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

(i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or

(ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



U.S. Department of Homeland Security
Arlington, Virginia 20598

Transportation
Security
Administration

By Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

(b)(3);49 U.S.C. §
114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate & Medical Certificate Number (b)(6);(b)(3);49 U.S.C. §
114(r)

Dear (b)(6);(b)(3);49
U.S.C. § 114(r)

On (b)(3);49 U.S.C. § the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the Federal Aviation Administration (FAA) of the determination that you pose, or are suspected of posing, a security threat, and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,

Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



Transportation
Security
Administration

By Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3);49 U.S.C. § 114(r)

Dear (b)(6);(b)(3);49 U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

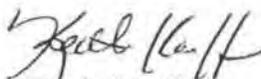
Peter Zolper
Acting Assistant Chief Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



Keith Kauffman
Acting Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration

enc.



Transportation
Security
Administration

By Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. §
114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number

(b)(6);(b)(3):49
U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C. §
114(r)

On (b)(3):49 U.S.C. § 114(r), the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose a security threat. Accordingly, TSA is concurrently notifying the Federal Aviation Administration (FAA) of the determination that you pose a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Bray".

Robert Bray
Acting Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



Transportation
Security
Administration

(b)(3):49 U.S.C. §
114(r)

By Registered Mail - Return Receipt Requested and Air Mail

(b)(6),(b)(3):49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment

Dear (b)(6),(b)(3):49 U.S.C. §
114(r)

On (b)(3):49 U.S.C. §
114(r) the Transportation Security Administration served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117(e).

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose a security threat. This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117(f)(2).

Sincerely,

Robert D. Jamison
Deputy Administrator

cc: Marion C. Blakey
Administrator
Federal Aviation Administration

Registered No.		RA 108 531 033 US		Date Stamp
To Be Completed By Post Office	Reg. Fee \$	Special \$		May 11, 2006
	Handling \$	Delivery \$		
	Charge \$	Return \$		
	Postage \$	Receipt \$		
Received by		Restricted \$	Delivery	
To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	Customer Must Declare Full Value \$	<input type="checkbox"/> With Postal Insurance	<input type="checkbox"/> Without Postal Insurance	Domestic Insurance Is Limited To \$25,000; International Indemnity Is Limited (See Reverse)
	FROM	(b)(6),(b)(3):49 U.S.C. § 114(r)		
TO				



Transportation
Security
Administration

(b)(3);49 U.S.C. § 114(r)

By Registered Mail - Return Receipt Requested and Air Mail

(b)(6);(b)(3);49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment

Dear (b)(6);(b)(3);49
U.S.C. § 114(r)

Pursuant to 49 C.F.R. § 1540.117(e), this letter serves as an Initial Notification of a Threat Assessment. Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose a security threat.

Section 1540.117 of Title 49, Code of Federal Regulations, sets forth the procedure by which TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and who holds an FAA Airman Certificate, rating, or authorization poses a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of this Initial Notification, you may serve a written request for copies of the releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification of Threat Assessment no later than 15 calendar days after the date of service of this Initial Notification, or the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification.

You should serve all documents upon:

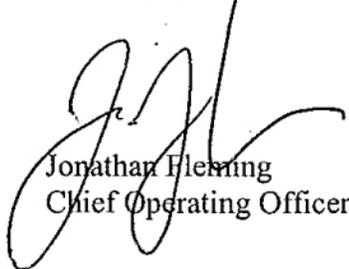
Robert G. Seasonwein
Assistant Chief Counsel
Criminal Enforcement
TSA Headquarters-West Tower
12th Floor, TSA -2
601 South 12th Street
Arlington, VA 22202-4220

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely yours,



Jonathan Fleming
Chief Operating Officer

cc: Marion C. Blakey
Administrator
Federal Aviation Administration

enc.



Transportation
Security
Administration

(b)(3);49 U.S.C. §
114(r)

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

(b)(6);(b)(3);49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3);49
U.S.C. §

Dear (b)(6);(b)(3);49 U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable

material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

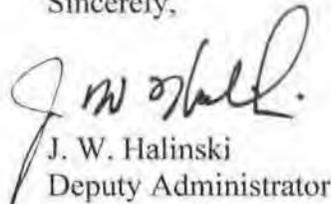
Robert G. Seasonwein
Assistant Chief Counsel
Security Threat Assessment Operations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



J. W. Halinski
Deputy Administrator

cc: The Honorable Michael P. Huerta
Acting Administrator
Federal Aviation Administration

enc.



Transportation
Security
Administration

(b)(3):49 U.S.C. §
114(r)

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49
and Medical Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)

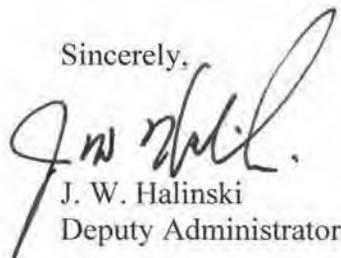
Dear Mr. Al Raddadi:

On (b)(3):49 U.S.C. § 114(r) the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,



J. W. Halinski
Deputy Administrator

cc: The Honorable Michael P. Huerta
Administrator
Federal Aviation Administration



Transportation
Security
Administration

By First Class and Registered Mail - Return Receipt Requested

(b)(3):49 U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number
and Medical Certificate Number

(b)(6);(b)(3):49
U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. §
114(r)

Dear (b)(6);(b)(3):49 U.S.C.
§ 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

Constance Genter
Senior Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,


Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration

enc.

(1) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

(1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).

(2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).

(3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.

(4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.

(5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

(i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or

(ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



Transportation
Security
Administration

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. §
114(r)

Rc: Withdrawal of Initial Notification of Threat Assessment for Airman
Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r) & Medical Certificate Number

(b)(6);(b)(3):49
U.S.C. § 114(r)

Dear (b)(6);(b)(3):49
U.S.C. § 114(r)

On (b)(3):49 U.S.C. § 114(r) the Transportation Security Administration (TSA) served upon you an Initial Notification of Threat Assessment related to your Federal Aviation Administration (FAA) airman and medical certificates. This letter serves as a withdrawal of the Initial Notification of Threat Assessment. Accordingly, TSA is concurrently notifying the FAA of this new determination and initiating the process to reinstate the certificates issued to you by the FAA.

Sincerely,

Gale Rossides
Deputy Administrator

cc: Richard Newcomb
DLA Piper LLP (US)
500 8th Street, NW
Washington, DC 20004



Transportation
Security
Administration

By Certified Mail - Return Receipt Requested

(b)(3);49 U.S.C. §
114(r)

(b)(6);(b)(3);49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3);49
& Medical Certificate Number (b)(6);(b)(3);49
U.S.C. § 114(r)

Dear (b)(6);(b)(3);49
U.S.C. § 114(r)

This letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, and pursuant to 49 United States Code § 46111, I have determined that you pose or are suspected of posing a security threat. Accordingly, TSA is initiating the process to revoke all certificates issued to you by the Federal Aviation Administration (FAA).

As part of this process, TSA is concurrently notifying the FAA of the determination that you pose or are suspected of posing a security threat and requesting that the FAA suspend all certificates issued to you by the FAA.

No later than 15 calendar days after the date of service of this Initial Notification, you may serve upon TSA a written request for copies of releasable materials and an unclassified summary of the classified information upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 30 calendar days after the date of service of the Initial Notification, or 30 days after the date of service of TSA's response to your request for copies of the releasable materials upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification.

In your written reply, you may request an in-person or written hearing before an administrative law judge. If requested, the in-person hearing will be held either at TSA headquarters or a location selected by TSA in the metropolitan Washington, D.C. area. The administrative law judge will issue a written decision no later than 30 calendar days after the conclusion of the hearing. The administrative law judge's decision may be appealed by either party to the Transportation Security Oversight Board (TSOB). The

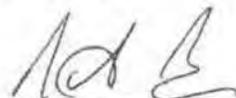
TSOB shall issue a Final Determination, which constitutes a final agency order. You should serve all documents upon:

Peter Zolper
Acting Assistant Chief Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA -2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Sincerely,



Robert Bray
Acting Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



Transportation
Security
Administration

By Certified Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

(b)(3);49 U.S.C. §
114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3);49
and Medical Certificate Number (b)(6);(b)(3);49 U.S.C. § 114(r)

Dear (b)(6);(b)(3);49
U.S.C. § 114(r)

On (b)(3);49 U.S.C. § 114(r), the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment (Initial Notification) pursuant to 49 U.S.C. § 46111.

After personally reviewing the Initial Notification and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a threat and requesting the FAA to revoke all certificates issued to you by the FAA.

This letter serves as a Final Notification of Threat Assessment.

Sincerely,


Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator, Federal Aviation Administration



Transportation
Security
Administration

(b)(3):49 U.S.C. §
114(r)

By First Class, Certified, and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number
and Medical Certificate Number

(b)(6);(b)(3):49
U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. §
114(r)

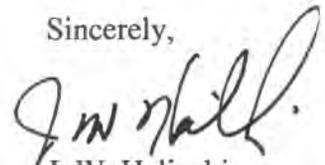
Dear (b)(6);(b)(3):49 U.S.C. §
114(r)

On (b)(3):49 U.S.C. §
114(r) the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,


J. W. Halinski
Deputy Administrator

cc: The Honorable Michael P. Huerta
Acting Administrator
Federal Aviation Administration



Transportation
Security
Administration

(b)(3):49 U.S.C. § 114(r)

By First Class, Certified, and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r) and
Medical Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

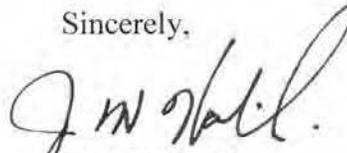
Peter Zolper
Assistant Chief Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



J.W. Halinski
Deputy Administrator

cc: The Honorable Michael P. Huerta
Acting Administrator
Federal Aviation Administration

enc.

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12958 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

(1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).

(2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).

(3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.

(4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.

(5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

(i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or

(ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



**Transportation
Security
Administration**

By Certified Mail - Return Receipt Requested

(b)(3):49 U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49
U.S.C. §

Dear (b)(6);(b)(3):49
U.S.C. § 114(r)

Section 1540.117 of Title 49, Code of Federal Regulations, sets forth the procedure by which the Transportation Security Administration (TSA) notifies individuals and the Federal Aviation Administration (FAA) of TSA's assessment that an individual who is an alien and holds an FAA Airman Certificate, rating, or authorization poses a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

Pursuant to 49 C.F.R. § 1540.117(e), this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization may be revoked.

No later than 15 calendar days after the date of service of the FAA's order suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the FAA's order, or 15 days after date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification.

You should serve all documents upon:

Robert G. Seasonwein
Assistant Chief Counsel
Threat Assessment and Internal Investigations

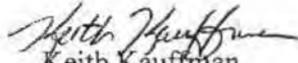
TSA Headquarters
12th Floor, TSA -2
601 South 12th Street
Arlington, VA 22202-4220

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



Keith Kauffman

Acting Deputy Administrator

cc: The Honorable Randy Babbit
Administrator
Federal Aviation Administration

enc.



Transportation
Security
Administration

By Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number

(b)(6);(b)(3);49
U.S.C. § 114(r)

Dear (b)(6);(b)(3);49 U.S.C.
§ 114(r)

On (b)(3);49 U.S.C. § 114(r) the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose a security threat. Accordingly, TSA is concurrently notifying the Federal Aviation Administration (FAA) of the determination that you pose a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Kauffman".

Keith Kauffman
Acting Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



U.S. Department of Homeland Security
Arlington, Virginia 20598

Transportation
Security
Administration

The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

(b)(3):49 U.S.C. §
114(r)

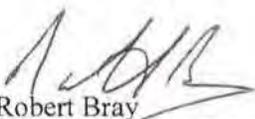
Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49
U.S.C. § 114(r)

Dear Administrator Babbitt:

The Transportation Security Administration (TSA) has issued an Initial Notification of Threat Assessment to (b)(6);(b)(3):49 U.S.C. § 114(r) informing him that he poses, or is suspected of posing, a security threat under 49 C.F.R. § 1540.117.

After personally reviewing the materials available to TSA, pursuant to 49 U.S.C. § 46111, I am notifying you that (b)(6);(b)(3):49 U.S.C. § 114(r) poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. I request that you issue an order to (b)(6);(b)(3):49 U.S.C. § 114(r) suspending all certificates issued by the Federal Aviation Administration under 49 U.S.C. Chapter 447, and that the order be effective immediately.

Sincerely,


Robert Bray
Acting Deputy Administrator

cc: Peter J. Lynch
Federal Aviation Administration



Transportation
Security
Administration

By Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

(b)(3);49 U.S.C. §
114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number

(b)(6);(b)(3);49
U.S.C. § 114(r)

Dear (b)(6);(b)(3);49
U.S.C. § 114(r)

On (b)(3);49 U.S.C. §
114(r) the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat, and requesting the FAA to revoke all certificates issued to you by the FAA.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,


Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



U.S. Department of Homeland Security
Arlington, Virginia 20598

Transportation
Security
Administration

(b)(3):49 U.S.C. § 114(r)

By First Class, Certified, and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

Robert G. Seasonwein
Assistant Chief Counsel
Security Threat Assessment Operations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,

A handwritten signature in black ink, appearing to read "Roderick Allison", written over a horizontal line.

Roderick Allison
Acting Deputy Administrator

cc: The Honorable Michael P. Huerta
Administrator
Federal Aviation Administration

enc.



**Transportation
Security
Administration**

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r) and Medical Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

Constance Genter
Senior Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration

enc.

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(i) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

(1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).

(2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).

(3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.

(4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.

(5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

(i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or

(ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



**Transportation
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By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49
(b)(6);(b)(3):49 U.S.C. § 114(r) and Medical Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

On (b)(3):49 U.S.C. § 114(r), the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,


Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



Transportation
Security
Administration

(b)(3)-49 U.S.C. §
114(r)

By First Class, Certified, and Registered Mail - Return Receipt Requested

(b)(6);(b)(3)-49 U.S.C. § 114(r)

(b)(6);(b)(3)-49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3)-49 U.S.C. §
and Medical Certificate Number (b)(6);(b)(3)-49 U.S.C. § 114(r)

Dear (b)(6);(b)(3)-49
U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

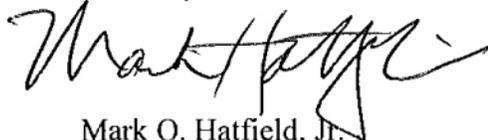
Robert G. Seasonwein
Assistant Chief Counsel
Security Threat Assessment Operations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



Mark O. Hatfield, Jr.
Deputy Administrator

cc: The Honorable Michael P. Huerta
Administrator
Federal Aviation Administration

enc.

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

(1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).

(2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).

(3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.

(4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.

(5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

(i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or

(ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



Transportation
Security
Administration

(b)(3):49 U.S.C. § 114(r)

By First Class, Certified, and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)
(b)(6);(b)(3):49 U.S.C. § 114(r) and Medical Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

On (b)(3):49 U.S.C. § 114(r) the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,

Roderick Allison
Acting Deputy Administrator

cc: The Honorable Michael P. Huerta
Administrator
Federal Aviation Administration



Transportation
Security
Administration

(b)(3);49 U.S.C. §
114(r)

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3);
(b)(6);(b)(3);49 U.S.C. § 114(r) and Medical Certificate Number (b)(6);(b)(3);49 U.S.C. § 114(r)

Dear (b)(6);(b)(3);49 U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

Robert G. Seasonwein
Assistant Chief Counsel
Security Threat Assessment Operations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark O. Hatfield, Jr.", written in a cursive style.

Mark O. Hatfield, Jr.
Deputy Administrator

cc: The Honorable Michael P. Huerta
Administrator
Federal Aviation Administration

enc.



Transportation
Security
Administration

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

(b)(3);49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3);49 U.S.C. § 114(r) and Medical Certificate Number (b)(6);(b)(3);49 U.S.C. § 114(r)

Dear (b)(6);(b)(3);49 U.S.C. § 114(r)

On (b)(3);49 U.S.C. § 114(r) the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,

Mark O. Hatfield, Jr.
Deputy Administrator

cc: The Honorable Michael P. Huerta
Administrator
Federal Aviation Administration



Transportation
Security
Administration

By Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Numbers

(b)(6);(b)(3);49
U.S.C. § 114(r)

Dear (b)(6);(b)(3);49
U.S.C. § 114(r)

The Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117(e).

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose a threat and requesting the FAA to revoke your airman certificate, rating or authorization.

This letter serves as an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117(f)(2).

Sincerely,

A handwritten signature in black ink that reads "Keith Kauffman".

Keith Kauffman
Acting Deputy Administrator

cc: Robert A. Sturgell
Acting Administrator
Federal Aviation Administration



**Transportation
Security
Administration**

(b)(3);49 U.S.C. §
114(r)

By Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3);49
U.S.C. § 114(r)

Dear (b)(6);(b)(3);49
U.S.C. § 114(r)

On (b)(3);49 U.S.C. §
114(r), the Transportation Security Administration (TSA) served upon
you and the Federal Aviation Administration an Initial Notification of Threat Assessment
pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and
materials available to TSA, I have determined that you pose a security threat.
Accordingly, TSA is concurrently notifying the Federal Aviation Administration (FAA)
of the determination that you pose a security threat and requesting the FAA to revoke all
of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49
C.F.R. § 1540.117.

Sincerely,


Keith Kauffman
Acting Deputy Administrator

cc: The Honorable Randy Babbitt
Administrator
Federal Aviation Administration



**Transportation
Security
Administration**

By Registered Mail - Return Receipt Requested

(b)(6),(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6),(b)(3):49 U.S.C. § 114(r)
and Medical Certificate Numbers (b)(6),(b)(3):49 U.S.C. § 114(r)

Dear (b)(6),(b)(3):49 U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

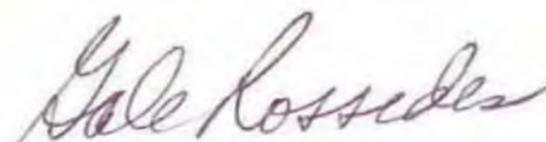
Constance Genter
Senior Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration

enc.

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedure under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

- (1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).
- (2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).
- (3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.
- (4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.
- (5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

- (i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or
- (ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

- (i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.
- (ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.
- (iii) Date and place of birth.
- (iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).
- (v) Gender.
- (vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.
- (vii) Alien registration number, if applicable.
- (viii) The following statement reading:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



**Transportation
Security
Administration**

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)
and Medical Certificate Numbers (b)(6);(b)(3):49 U.S.C. § 114(r), and
(b)(6);(b)(3):49 U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

On (b)(3):49 U.S.C. § 114(r) the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment (Initial Notification) pursuant to 49 C.F.R. § 1540.117.

In addition, although the Initial Notification of (b)(3):49 U.S.C. § 114(r) only referenced FAA Airman Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r) and Medical Certificate Numbers (b)(6);(b)(3):49 U.S.C. § 114(r), please be advised the Initial Notification also relates to Medical Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r).

After personally reviewing the Initial Notification and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,


Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



Transportation
Security
Administration

(b)(3):49 U.S.C. §
114(r)

By First Class and Registered Mail - Return Receipt Requested

(b)(6):(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6):(b)(3):49
and Medical Certificate Number (b)(6):(b)(3):49 U.S.C. § 114(r)

Dear (b)(6):(b)(3):49
U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

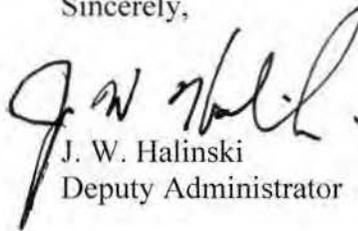
Robert G. Seasonwein
Assistant Chief Counsel
Security Threat Assessment Operations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



J. W. Halinski
Deputy Administrator

cc: The Honorable Michael P. Huerta
Acting Administrator
Federal Aviation Administration

enc.



**Transportation
Security
Administration**

By First Class and Certified Mail - Return Receipt Requested

(b)(3):49 U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number

(b)(6);(b)(3):49
U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C.
§ 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

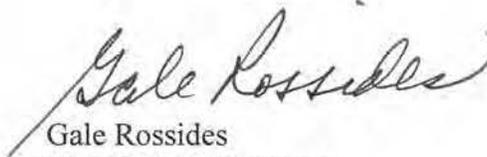
Constance Genter
Senior Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,

A handwritten signature in cursive script that reads "Gale Rossides".

Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration

enc.

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

- (1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).
- (2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).
- (3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.
- (4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.
- (5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

- (i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or
- (ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice/ Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



**Transportation
Security
Administration**

By First Class and Certified Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

(b)(3);49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3);49 U.S.C. § 114(r)
& Medical Certificate Number (b)(6);(b)(3);49 U.S.C. § 114(r)

Dear (b)(6);(b)(3);49 U.S.C. § 114(r)

On (b)(3);49 U.S.C. § 114(r) the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,


Gale Rossides
Deputy Administrator

cc: The Honorable Michael P. Huerta
Acting Administrator
Federal Aviation Administration



Transportation
Security
Administration

(b)(3):49 U.S.C. § 114(r)

By Registered Mail - Return Receipt Requested and Air Mail

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

Pursuant to 49 C.F.R. § 1540.117(e), this letter serves as an Initial Notification of a Threat Assessment. Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose a security threat.

Section 1540.117 of Title 49, Code of Federal Regulations, sets forth the procedure by which TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and who holds an FAA Airman Certificate, rating, or authorization poses a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of this Initial Notification, you may serve a written request for copies of the releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification of Threat Assessment no later than 15 calendar days after the date of service of this Initial Notification, or the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification.

You should serve all documents upon:

Robert G. Seasonwein
Assistant Chief Counsel
Criminal Enforcement
TSA Headquarters-West Tower
12th Floor, TSA -2
601 South 12th Street
Arlington, VA 22202-4220

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely yours,



Timothy Upham, Director
Aviation and Analysis Directorate
Transportation Threat Assessment and Credentialing

cc: Marion C. Blakey
Administrator
Federal Aviation Administration

enc.



Transportation
Security
Administration

(b)(3):49 U.S.C. § 114(r)

By Registered Mail - Return Receipt Requested

Stephen J. Fearon, Esq
7 Times Square
New York, New York 10036

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Numbers (b)(6);(b)(3):49
U.S.C. §

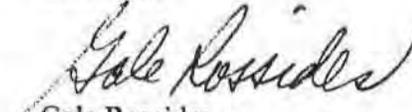
Dear Mr. Fearon:

The Transportation Security Administration (TSA) served upon your client
(b)(6);(b)(3):49 U.S.C. § 114(r) and the Federal Aviation Administration (FAA) a Final
Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117(e).

After personally reviewing the Final Notification of Threat Assessment and materials
available to TSA, I have determined that your client poses a security threat. Accordingly,
TSA is concurrently notifying the FAA of the determination that your client poses a
threat and requesting the FAA to revoke his airman certificate, rating or authorization.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R.
§ 1540.117(f)(2).

Sincerely,


Gale Rossides
Deputy Administrator

cc: Robert A. Sturgell
Acting Administrator
Federal Aviation Administration



**Transportation
Security
Administration**

By First Class and [Certified or Registered] Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number

(b)(6);(b)(3);49 U.S.C. §
114(r)

Medical Certificate

(b)(6);(b)(3);49 U.S.C. §
114(r)

Dear (b)(6);(b)(3);49 U.S.C.
§ 114(r)

This letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, and pursuant to 49 United States Code § 46111, I have determined that you pose or are suspected of posing a security threat. Accordingly, TSA is initiating the process to revoke all certificates issued to you by the Federal Aviation Administration (FAA).

As part of this process, TSA is concurrently notifying the FAA of the determination that you pose or are suspected of posing a security threat and requesting that the FAA suspend all certificates issued to you by the FAA.

No later than 15 calendar days after the date of service of this Initial Notification, you may serve upon TSA a written request for copies of releasable materials and an unclassified summary of the classified information upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 30 calendar days after the date of service of the Initial Notification, or 30 days after the date of service of TSA's response to your request for copies of the releasable materials upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification.

In your written reply, you may request an in-person or written hearing before an administrative law judge. If requested, the in-person hearing will be held either at TSA headquarters or a location selected by TSA in the metropolitan Washington, D.C. area. The administrative law judge will issue a written decision no later than 30 calendar days after the conclusion of the hearing. The administrative law judge's decision may be appealed by either party to the Transportation Security Oversight Board (TSOB). The

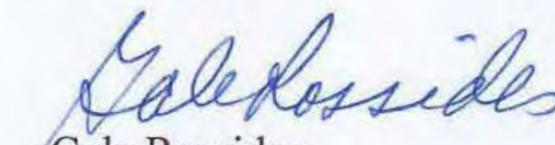
TSOB shall issue a Final Determination, which constitutes a final agency order. You should serve all documents upon:

Constance Genter
Senior Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA -2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Sincerely,


Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



U.S. Department of Homeland Security
Arlington, Virginia 20598

**Transportation
Security
Administration**

The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number Airman
Certificate Number (b)(6);(b)(3);49 U.S.C. § 114(r) Medical Certificate (b)(6);(b)(3);49 U.S.C. § 114(r)

Dear Administrator Babbitt:

The Transportation Security Administration (TSA) has issued an Initial Notification of Threat Assessment to (b)(6);(b)(3);49 U.S.C. § 114(r) informing him that he poses, or is suspected of posing, a security threat under 49 U.S.C. § 46111.

After personally reviewing the materials available to TSA, pursuant to 49 U.S.C. § 46111, I am notifying you that (b)(6);(b)(3);49 U.S.C. § 114(r) poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. I request that you issue an order to Mr. [Insert Name] suspending all certificates issued by the Federal Aviation Administration under 49 U.S.C. Chapter 447, and that the order be effective immediately.

Sincerely,


Gale Rossides
Deputy Administrator

cc: Peter J. Lynch
Federal Aviation Administration



Transportation
Security
Administration

By Certified Mail - Return Receipt Requested

(b)(3):49 U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number

(b)(6);(b)(3):49
U.S.C. § 114(r)

Dear (b)(6);(b)(3):49
U.S.C. § 114(r)

Section 1540.115 of Title 49, Code of Federal Regulations, sets forth the procedure by which the Transportation Security Administration (TSA) notifies individuals and the Federal Aviation Administration (FAA) of TSA's assessment that an individual who is a U.S. citizen and holds and FAA Airman Certificate, rating, or authorization poses a security threat.

Pursuant to 49 C.F.R. § 115(e), this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose or are suspected of posing a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization may be revoked.

As part of that process, TSA is concurrently notifying the FAA of the determination that you pose or are suspected of posing a threat and requesting that the FAA suspend your airman certificate, rating or authorization.

No later than 15 calendar days after the date of service of the FAA's order suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials and an unclassified summary of the classified information upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the FAA's order, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification.

In your written reply, you may request an in-person or written hearing before an administrative law judge. If requested, the in-person hearing will be held either at TSA

headquarters or a location selected by TSA in the metropolitan Washington, DC area. The administrative law judge will issue a written decision no later than 30 calendar days after the conclusion of the hearing. The administrative law judge's decision may be appealed by either party to the Transportation Security Oversight Board (TSOB). The TSOB shall issue a Final Determination, which constitutes a final agency order.

You should serve all documents upon:

Robert G. Seasonwein
Assistant Chief Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA -2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Sincerely,



Keith Kauffman

Acting Deputy Administrator

cc: The Honorable Randy Babbit
Administrator
Federal Aviation Administration



Transportation
Security
Administration

By Certified Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. §
114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number: (b)(6);(b)(3):49
U.S.C. § 114(r)

Dear (b)(6);(b)(3):49

On (b)(3):49 U.S.C. § the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration an Initial Notification of Threat Assessment (Initial Notification) pursuant to 49 C.F.R. § 1540.115. The Initial Notification, however, is governed not by 49 C.F.R. 1540.115, but 49 U.S.C. § 46111.

After personally reviewing the Initial Notification and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing a threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment.

Sincerely,

Gale Rossides
Deputy Administrator

cc: The Honorable Randy Babbitt
Administrator
Federal Aviation Administration



Transportation
Security
Administration

(b)(3):49 U.S.C. § 114(r)

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number FF-
(b)(6);(b)(3):49 U.S.C. § 114(r) & Medical Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:



Transportation
Security
Administration

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3)
(b)(6);(b)(3):49 U.S.C. § 114(r) and Medical Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)

Dear (b)(6);(b)(3):49

On (b)(3):49 U.S.C. § 114(r) the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,

Gale Rossides
Gale Rossides
Deputy Administrator

cc: The Honorable Michael P. Huerta
Acting Administrator
Federal Aviation Administration



**Transportation
Security
Administration**

(b)(3):49 U.S.C. § 114(r)

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number
and Medical Certificate Number

(b)(6);(b)(3):49
U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C.
§ 114(r)

Dear (b)(6);(b)(3):49 U.S.C. §
114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

Peter Zolper
Assistant Chief Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration

enc.

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

(1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).

(2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).

(3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.

(4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.

(5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

(i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or

(ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



**Transportation
Security
Administration**

By First Class, Certified, and Registered Mail - Return Receipt Requested

(b)(6);(b)(3);49 U.S.C. § 114(r)

(b)(6);(b)(3);49 U.S.C. § 114(r)

(b)(3);49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3);49
and Medical Certificate Number (b)(6);(b)(3);49 U.S.C. § 114(r)

Dear (b)(6);(b)(3);49 U.S.C. § 114(r)

On (b)(3);49 U.S.C. § 114(r), the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,


Gale Rossides
Deputy Administrator

cc: The Honorable Michael P. Huerta
Acting Administrator
Federal Aviation Administration



**Transportation
Security
Administration**

By Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49 U.S.C. § 114(r)

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

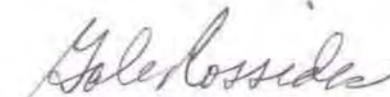
Constance Genter
Senior Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration

enc.

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

(1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).

(2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).

(3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.

(4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.

(5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

- (i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or
- (ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure



Transportation
Security
Administration

(b)(3):49 U.S.C. § 114(r)

By First Class and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number 002643990

Dear (b)(6);(b)(3):49
U.S.C. § 114(r)

On October 28, 2010, the Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration (FAA) an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,

Gale Rossides
Deputy Administrator

cc: The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration



**Transportation
Security
Administration**

By Certified Mail - Return Receipt Requested

(b)(3):49 U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number

(b)(6);(b)(3):49
U.S.C. § 114(r)

Dear (b)(6);(b)(3):49
U.S.C. § 114(r)

Section 1540.117 of Title 49, Code of Federal Regulations, sets forth the procedure by which the Transportation Security Administration (TSA) notifies individuals and the Federal Aviation Administration (FAA) of TSA's assessment that an individual who is an alien and holds an FAA Airman Certificate, rating, or authorization poses a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

Pursuant to 49 C.F.R. § 1540.117(e), this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization may be revoked.

No later than 15 calendar days after the date of service of the FAA's order suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the FAA's order, or 15 days after date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification.

You should serve all documents upon:

Robert G. Seasonwein
Assistant Chief Counsel
Threat Assessment and Internal Investigations

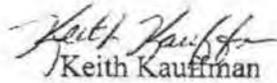
TSA Headquarters
12th Floor, TSA -2
601 South 12th Street
Arlington, VA 22202-4220

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



Keith Kauffman
Acting Deputy Administrator

cc: The Honorable Randy Babbit
Administrator
Federal Aviation Administration

enc.



**Transportation
Security
Administration**

By Registered Mail - Return Receipt Requested

(b)(3):49 U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. § 114(r)

Re: Final Notification of Threat Assessment
Federal Aviation Administration Airman Certificate Number (b)(6);(b)(3):49 U.S.C. §

Dear (b)(6);(b)(3):49 U.S.C. § 114(r)

The Transportation Security Administration (TSA) served upon you and the Federal Aviation Administration an Initial Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

After personally reviewing the Initial Notification of Threat Assessment and materials available to TSA, I have determined that you pose a security threat. Accordingly, TSA is concurrently notifying the FAA of the determination that you pose a security threat and requesting the FAA to revoke all of your airman certificates, ratings or authorizations.

This letter serves as a Final Notification of Threat Assessment pursuant to 49 C.F.R. § 1540.117.

Sincerely,

Keith Kauffman
Acting Deputy Administrator

cc: The Honorable Randy Babbitt
Administrator
Federal Aviation Administration



Transportation
Security
Administration

By First Class, Certified, and Registered Mail - Return Receipt Requested

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(6);(b)(3):49 U.S.C. § 114(r)

(b)(3):49 U.S.C. § 114(r)

Re: Initial Notification of Threat Assessment

Federal Aviation Administration Airman Certificates Numbers (b)(6);(b)(3):

(b)(6);(b)(3):49 U.S.C. § 114(r)

and Medical Certificate Number (b)(6);(b)(3):49

U.S.C. § 114(r)

Dear (b)(6);(b)(3):49
U.S.C. § 114(r)

Pursuant to section 1540.117 of Title 49, Code of Federal Regulations, this letter serves as an initial notification of a threat assessment (Initial Notification). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process by which your Federal Aviation Administration (FAA) airman certificate, rating, or authorization will be suspended and may ultimately be revoked.

49 C.F.R. § 1540.117 sets forth the procedure by which the TSA notifies individuals and the FAA of TSA's assessment that an individual who is an alien and holds an FAA airman certificate, rating, or authorization poses, or is suspected of posing, a security threat. This regulation in the Code of Federal Regulations has been included for your reference.

No later than 15 calendar days after the date of service of the Initial Notification suspending your certificate or any part of your certificate, you may serve upon TSA a written request for copies of releasable materials upon which this Initial Notification was based.

In addition, you may serve upon TSA a written reply to the Initial Notification no later than 15 calendar days after the date of service of the Initial Notification, or 15 days after the date of service of TSA's response to your request for copies of the releasable material upon which this Initial Notification was based, whichever is later. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Initial Notification. You should serve all documents upon:

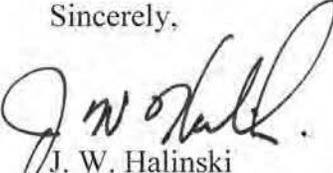
Peter Zolper
Assistant Chief Counsel
Threat Assessment and Internal Investigations
TSA Headquarters
12th Floor, TSA-2
601 South 12th Street
Arlington, VA 20598

TSA does not disclose classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right to not disclose any other information or material not warranting disclosure or protected from disclosure under law.

You may, if you choose, be represented by counsel during this process at your own expense.

Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives your reply, TSA will issue a final determination.

Sincerely,



J. W. Halinski
Deputy Administrator

cc: The Honorable Michael P. Huerta
Acting Administrator
Federal Aviation Administration

enc.

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for Materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply.* The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment—(1) In general.* The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Review and Issuance of Final Notification.* If the Deputy Administrator determines that the individual poses a security threat, the Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him. If the Administrator determines that the indi-

vidual poses a security threat, the Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification.* If the Deputy Administrator does not determine that the individual poses a security threat, or upon review, the Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information.* In connection with the procedures under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3761, Jan. 24, 2003, as amended at 68 FR 49721, Aug. 19, 2003]

§ 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section:

Assistant Administrator means the Assistant Administrator for Intelligence for TSA.

Date of service means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

Deputy Administrator means the officer next in rank below the Administrator.

FAA Administrator means the Administrator of the Federal Aviation Administration.

Individual means an individual whom TSA determines poses a security threat.

(c) *Security threat*. An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel*. The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment*—(1) *Issuance*. If the Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials*. Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request for copies of the releasable materials

upon which the Initial Notification was based, TSA serves a response. TSA will not include in its response any classified information or other information described in paragraph (g) of this section.

(4) *Reply*. The individual may serve upon TSA a written reply to the Initial Notification of Threat Assessment not later than 15 calendar days after the date of service of the Initial Notification, or the date of service of TSA's response to the individual's request under paragraph (e)(2) if such a request was served. The reply may include any information that the individual believes TSA should consider in reviewing the basis for the Initial Notification.

(5) *TSA final determination*. Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after TSA receives the individual's reply, TSA serves a final determination in accordance with paragraph (f) of this section.

(f) *Final Notification of Threat Assessment*—(1) *In general*. The Deputy Administrator reviews the Initial Notification, the materials upon which the Initial Notification was based, the individual's reply, if any, and any other materials or information available to him.

(2) *Issuance of Final Notification*. If the Deputy Administrator determines that the individual poses a security threat, the Deputy Administrator serves upon the individual a Final Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Final Notification includes a statement that the Deputy Administrator personally has reviewed the Initial Notification, the individual's reply, if any, and any other materials or information available to him, and has determined that the individual poses a security threat.

(3) *Withdrawal of Initial Notification*. If the Deputy Administrator does not determine that the individual poses a security threat, TSA serves upon the individual a Withdrawal of the Initial Notification and provides a copy of the Withdrawal to the FAA Administrator.

(g) *Nondisclosure of certain information*. In connection with the procedures

under this section, TSA does not disclose to the individual classified information, as defined in Executive Order 12968 section 1.1(d), and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

[68 FR 3768, Jan. 24, 2003]

Subpart C—Security Threat Assessments

SOURCE: 72 FR 3592, Jan. 25, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 47700, Sept. 16, 2009, subpart C was revised, effective November 16, 2009. The new subpart appears after the text of this subpart.

§ 1540.201 Applicability and terms used in this subpart.

(a) This subpart includes the procedures that certain aircraft operators, foreign air carriers, and indirect air carriers must use to have security threat assessments done on certain individuals pursuant to 49 CFR 1544.228, 1546.213, 1548.7, 1548.15, and 1548.16. This subpart applies to the following:

(1) Each aircraft operator operating under a full program or full all-cargo program described in 49 CFR 1544.101(a) or (h).

(2) Each foreign air carrier operating under a program described in 49 CFR 1546.101(a), (b), or (e).

(3) Each indirect air carrier operating under a security program described in 49 CFR part 1548.

(4) Each applicant applying for unescorted access to cargo under one of the programs described in (a)(1) through (a)(3) of this section.

(5) Each proprietor, general partner, officer, director, or owner of an indirect air carrier as described in 49 CFR 1548.16.

(b) For purposes of this subpart—

Applicant means the individuals listed in paragraph (a)(4) and (a)(5) of this section.

Operator means an aircraft operator, foreign air carrier, and indirect air carrier listed in paragraphs (a)(1) through (a)(3) of this section.

(c) An applicant poses a security threat under this subpart when TSA

determines that he or she is known to pose or suspected of posing a threat—

- (1) To national security;
- (2) To transportation security; or
- (3) Of terrorism.

[72 FR 3592, Jan. 25, 2007; 72 FR 14049, Mar. 26, 2007]

§ 1540.203 Operator responsibilities.

(a) Each operator subject to this subpart must ensure that each applicant described in § 1540.201(a)(4) and (a)(5) completes the Security Threat Assessment described in this section.

(b) Each operator must:

(1) Authenticate the identity of the applicant by—

(i) Reviewing two forms of identification, one of which must be a government-issued picture identification; or

(ii) Other means approved by TSA.

(2) Submit to TSA a Security Threat Assessment application for each applicant that is signed by the applicant and that includes:

(i) Legal name, including first, middle, and last; any applicable suffix; and any other names used previously.

(ii) Current mailing address, including residential address if it differs from the current mailing address, and all other residential addresses for the previous five years, and e-mail address, if the applicant has an e-mail address.

(iii) Date and place of birth.

(iv) Social security number (submission is voluntary, although failure to provide it may delay or prevent completion of the threat assessment).

(v) Gender.

(vi) Country of citizenship, and if naturalized in the United States, date of naturalization and certificate number.

(vii) Alien registration number, if applicable.

(viii) The following statement reading:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a. *Purpose:* This information is needed to verify your identity and to conduct a Security Threat Assessment to evaluate your suitability for completing the functions required by this position. Failure to furnish your SSN may result in delays in processing your application, but will not prevent completion of your Security Threat Assessment. Furnishing the other information is also voluntary; however, failure