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49 C.F.R. PART 1546—FOREIGN AIR CARRIER SECURITY

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PART 1546—FOREIGN AIR CARRIER SECURITY

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Subpart A—General

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§ 1546.1 Applicability of this part.

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This part prescribes aviation security rules governing the following:

- (a) The operation within the United States of each foreign air carrier holding a permit issued by the Department of Transportation under 49 U.S.C. 41302 or other appropriate authority issued by the former Civil Aeronautics Board or the Department of Transportation.

(b) Each law enforcement officer flying armed aboard an aircraft operated by a foreign air carrier described in paragraph (a) of this section.

§ 1546.3 TSA inspection authority.

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[Link to an amendment published at 71 FR 30511, May 26, 2006.](#)

(a) Each foreign air carrier must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

(1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each foreign air carrier must provide evidence of compliance with this subchapter and its security program, including copies of records.

Subpart B—Security Program

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§ 1546.101 Adoption and implementation.

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[Link to an amendment published at 71 FR 30511, May 26, 2006.](#)

Each foreign air carrier landing or taking off in the United States must adopt and carry out a security program, for each scheduled and public charter passenger operation, that meets the requirements of—

(a) Section 1546.103(b) for each operation with an airplane having a passenger seating configuration of 61 or more seats;

(b) Section 1546.103(b) for each operation that will provide deplaned passengers access to a sterile area, or enplane passengers from a sterile area, when that access is not controlled by an aircraft operator using a security program under part 1544 of this chapter or a foreign air carrier using a security program under this part;

(c) Section 1546.103(b) for each operation with an airplane having a passenger seating configuration of 31 or more seats but 60 or fewer seats for which TSA has notified the foreign air carrier in writing that a threat exists; and

(d) Section 1546.103(c) for each operation with an airplane having a passenger seating configuration of 31 or more seats but 60 or fewer seats, when TSA has not notified the foreign air carrier in writing that a threat exists with respect to that operation.

§ 1546.103 Form, content, and availability of security program.

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[Link to an amendment published at 71 FR 30512, May 26, 2006.](#)

(a) *General requirements.* The security program must be:

(1) Acceptable to TSA. A foreign air carrier's security program is acceptable only if TSA finds that the security program provides passengers a level of protection similar to the level of protection provided by U.S. air carriers serving the same airports. Foreign air carriers must employ procedures equivalent to those required of U.S. air carriers serving the same airport if TSA determines that such procedures are necessary to provide passengers a similar level of protection.

(2) In English unless TSA requests that the program be submitted in the official language of the foreign air carrier's country.

(b) *Content of security program.* Each security program required by §1546.101(a), (b), or (c) must be designed to—

(1) Prevent or deter the carriage aboard airplanes of any unauthorized explosive, incendiary, or weapon on or about each individual's person or accessible property, except as provided in §1546.201(d), through screening by weapon-detecting procedures or facilities;

(2) Prohibit unauthorized access to airplanes;

(3) Ensure that checked baggage is accepted by a responsible agent of the foreign air carrier; and

(4) Prevent cargo and checked baggage from being loaded aboard its airplanes unless handled in accordance with the foreign air carrier's security procedures.

(c) *Law enforcement support.* Each security program required by §1546.101(d) must include the procedures used to comply with the applicable requirements of §1546.209 regarding law enforcement officers.

(d) *Availability.* Each foreign air carrier required to adopt and use a security program under this part must—

(1) Restrict the distribution, disclosure, and availability of sensitive security information, as defined in part 1520 of this chapter, to persons with a need to know; and

(2) Refer requests for sensitive security information by other persons to TSA.

§ 1546.105 Acceptance of and amendments to the security program.

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(a) *Initial acceptance of security program.* Unless otherwise authorized by TSA, each foreign air carrier required to have a security program by this part must submit its proposed program to TSA at least 90 days before the intended date of passenger operations. TSA will notify the foreign air carrier of the security program's acceptability, or the need to modify the proposed security program for it to be acceptable under this part, within 30 days after receiving the proposed security program. The foreign air carrier may petition TSA to reconsider the notice to modify the security program within 30 days after receiving a notice to modify.

(b) *Amendment requested by a foreign air carrier.* A foreign air carrier may submit a request to TSA to amend its accepted security program as follows:

(1) The proposed amendment must be filed with the designated official at least 45 calendar days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 calendar days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to a foreign air carrier security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 45 calendar days after receiving a denial, the foreign air carrier may petition the Administrator to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the Administrator for reconsideration. The Administrator disposes of the petition within 30 calendar days of receipt by either directing the designated official to approve the amendment, or affirming the denial.

(6) Any foreign air carrier may submit a group proposal for an amendment that is on behalf of it and other aircraft operators that co-sign the proposal.

(c) *Amendment by TSA.* If the safety and the public interest require an amendment, the designated official may amend an accepted security program as follows:

(1) The designated official notifies the foreign air carrier, in writing, of the proposed amendment, fixing a period of not less than 45 calendar days within which the foreign air carrier may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the foreign air carrier of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 calendar days after the foreign air carrier receives the notice of amendment, unless the foreign air carrier petitions the Administrator to reconsider no later than 15 calendar days before the effective date of the amendment. The foreign air carrier must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice or transmits the petition, together with any pertinent information, to the Administrator for reconsideration. The Administrator disposes of the petition within 30 calendar days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* If the designated official finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, without the prior notice and comment procedures in paragraph (c) of this section, effective without stay on the date the foreign air carrier receives notice of it. In such a case, the designated official will incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The foreign air carrier may file a petition for reconsideration under paragraph (c) of this section; however, this does not stay the effectiveness of the emergency amendment.

Subpart C—Operations

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§ 1546.201 Acceptance and screening of individuals and accessible property.

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(a) *Preventing or deterring the carriage of any explosive, incendiary, or weapon.* Unless otherwise authorized by TSA, each foreign air carrier must use the measures in its security program to prevent or deter the carriage of any explosive, incendiary, or weapon on or about each individual's person or accessible property before boarding an aircraft or entering a sterile area.

(b) *Screening of individuals and accessible property.* Except as provided in its security program, each foreign air carrier must ensure that each individual entering a sterile area at each preboard screening checkpoint for which it is responsible, and all accessible property under that individual's control, are inspected for weapons, explosives, and incendiaries as provided in §1546.207.

(c) *Refusal to transport.* Each foreign air carrier conducting an operation for which a security program is required by §1546.101(a), (b), or (c) must refuse to transport—

(1) Any individual who does not consent to a search or inspection of his or her person in accordance with the system prescribed in this part; and

(2) Any property of any individual or other person who does not consent to a search or inspection of that property in accordance with the system prescribed by this part.

(d) *Explosive, incendiary, weapon: Prohibitions and exceptions.* No individual may, while on board an aircraft being operated by a foreign air carrier in the United States, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph (d) does not apply to—

(1) Officials or employees of the state of registry of the aircraft who are authorized by that state to carry arms; and

(2) Crewmembers and other individuals authorized by the foreign air carrier to carry arms.

§ 1546.202 XXX

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[Link to an amendment published at 71 FR 30512, May 26, 2006.](#)

§ 1546.203 Acceptance and screening of checked baggage.

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(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each foreign air carrier must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary onboard aircraft in checked baggage.

(b) *Refusal to transport.* Each foreign air carrier must refuse to transport any individual's checked baggage or property if the individual does not consent to a search or inspection of that checked baggage or property in accordance with the system prescribed by this part.

(c) *Firearms in checked baggage.* No foreign air carrier may knowingly permit any person to transport, nor may any person transport, while aboard an aircraft being operated in the United States by that carrier, in checked baggage, a firearm, unless:

(1) The person has notified the foreign air carrier before checking the baggage that the firearm is in the baggage; and

(2) The baggage is carried in an area inaccessible to passengers.

§ 1546.205 Acceptance and screening of cargo.

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[Link to an amendment published at 71 FR 30512, May 26, 2006.](#)

(a) *General requirements.* Each foreign air carrier must use the procedures, facilities and equipment described in its security program to prevent or deter the carriage of unauthorized explosives or incendiaries in cargo onboard a passenger aircraft.

(b) *Refusal to transport.* Each foreign air carrier must refuse to transport any cargo if the shipper does not consent to a search or inspection of that cargo in accordance with the system prescribed by this part.

§ 1546.207 Screening of individuals and property.

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(a) *Applicability of this section.* This section applies to the inspection of individuals, accessible property, checked baggage, and cargo as required under this part.

(b) *Locations within the United States at which TSA conducts screening.* As required in its security program, each foreign air carrier must ensure that all individuals or property have been inspected by TSA before boarding or loading on its aircraft. This paragraph applies when TSA is conducting screening using TSA employees or when using companies under contract with TSA.

(c) *Foreign air carrier conducting screening.* Each foreign air carrier must use the measures in its security program to inspect the individual or property. This paragraph does not apply at locations identified in paragraphs (b) of this section.

§ 1546.209 Use of X-ray systems.

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(a) *TSA authorization required.* No foreign air carrier may use any X-ray system within the United States to screen accessible property or checked baggage, unless specifically authorized under its security program. No foreign air carrier may use such a system in a manner contrary to its security program. TSA authorizes foreign air carriers to use X-ray systems for inspecting accessible property or checked baggage under a security program if the foreign air carrier shows that—

(1) The system meets the standards for cabinet X-ray systems primarily for the inspection of baggage issued by the Food and Drug Administration (FDA) and published in 21 CFR 1020.40;

(2) A program for initial and recurrent training of operators of the system is established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons, explosives, and incendiaries; and

(3) The system meets the imaging requirements set forth in its security program using the step wedge specified in American Society for Testing Materials (ASTM) Standard F792–88 (Reapproved 1993). This standard is incorporated by reference in paragraph (g) of this section.

(b) *Annual radiation survey.* No foreign air carrier may use any X-ray system unless, within the preceding 12 calendar months, a radiation survey is conducted that shows that the system meets the applicable performance standards in 21 CFR 1020.40.

(c) *Radiation survey after installation or moving.* No foreign air carrier may use any X-ray system after the system has been installed at a screening point or after the system has been moved unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40. A radiation survey is not required for an X-ray system that is designed and constructed as a mobile unit and the foreign air carrier shows that it can be moved without altering its performance.

(d) *Defect notice or modification order.* No foreign air carrier may use any X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless the FDA has advised TSA that the defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person.

(e) *Signs and inspection of photographic equipment and film.* (1) At locations at which a foreign air carrier uses an X-ray system to inspect accessible property the foreign air carrier must ensure that a sign is posted in a conspicuous place at the screening checkpoint.

(2) At locations at which a foreign air carrier or TSA uses an X-ray system to inspect checked baggage the foreign air carrier must ensure that a sign is posted in a conspicuous place where the foreign air carrier accepts checked baggage.

(3) The signs required under this paragraph must notify individuals that such items are being inspected by an X-ray and advise them to remove all X-ray, scientific, and high-speed film from accessible property and checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any accessible property or checked baggage to more than one milliroentgen during the inspection, the sign must advise individuals to remove film of all kinds from their articles before inspection.

(4) If requested by individuals, their photographic equipment and film packages must be inspected without exposure to an X-ray system.

(f) *Radiation survey verification after installation or moving.* Each foreign air carrier must maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and must make it available for inspection upon request by TSA at each of the following locations—

(1) The foreign air carrier's principal business office; and

(2) The place where the X-ray system is in operation.

(g) *Incorporation by reference.* The American Society for Testing and Materials (ASTM) Standard F792–88 (Reapproved 1993), “Standard Practice for Design and Use of Ionizing Radiation Equipment for the Detection of Items Prohibited in Controlled Access Areas,” is approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. ASTM Standard F792–88 may be examined at the Department of Transportation (DOT) Docket, 400 Seventh Street SW, Room Plaza 401, Washington, DC 20590, or on DOT's Docket Management System (DMS) web page at <http://dms.dot.gov/search> (under docket number FAA–2001–8725). Copies of the standard may be examined also at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. In addition, ASTM Standard F792–88 (Reapproved 1993) may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

(h) Each foreign air carrier must comply with the X-ray operator duty time limitations specified in its security program.

[67 FR 8377, Feb. 22, 2002, as amended at 69 FR 18803, Apr. 9, 2004]

§ 1546.211 Law enforcement personnel.

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(a) At airports within the United States not governed by part 1542 of this chapter, each foreign air carrier engaging in public charter passenger operations must—

(1) When using a screening system required by §1546.101(a), (b), or (c), provide for law enforcement officers meeting the qualifications and standards, and in the number and manner, specified in part 1542; and

(2) When using an airplane having a passenger seating configuration of 31 or more but 60 or fewer seats for which a screening system is not required by §1546.101(a), (b), or (c), arrange for law enforcement officers meeting the qualifications and standards specified in part 1542 of this chapter to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(b) At airports governed by part 1542 of this chapter, each foreign air carrier engaging in scheduled passenger operations or public charter passenger operations when using an airplane with a passenger seating configuration of 31 or more and 60 or fewer seats under §1546.101(c), must arrange for law enforcement personnel meeting the qualifications and standards specified in part 1542 of this chapter to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

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[Link to an amendment published at 71 FR 30512, May 26, 2006.](#)

[Link to a correction published at 71 FR 31964, Jun 2, 2006.](#)

§ 1546.215 XXX

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Subpart D—Threat and Threat Response

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§ 1546.301 Bomb or air piracy threats.

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[Link to an amendment published at 71 FR 30513, May 26, 2006.](#)

No foreign air carrier may land or take off an airplane in the United States, in passenger operations, after receiving a bomb or air piracy threat against that airplane, unless the following actions are taken:

(a) If the airplane is on the ground when a bomb threat is received and the next scheduled flight of the threatened airplane is to or from a place in the United States, the foreign air carrier ensures that the pilot in command is advised to submit the airplane immediately for a security inspection and an inspection of the airplane is conducted before the next flight.

(b) If the airplane is in flight to a place in the United States when a bomb threat is received, the foreign air carrier ensures that the pilot in command is advised immediately to take the emergency action necessary under the circumstances and a security inspection of the airplane is conducted immediately after the next landing.

(c) If information is received of a bomb or air piracy threat against an airplane engaged in an operation specified in paragraph (a) or (b) of this section, the foreign air carrier ensures that notification of the threat is given to the appropriate authorities of the State in whose territory the airplane is located or, if in flight, the appropriate authorities of the State in whose territory the airplane is to land.

Subpart E—Screener Qualifications When the Foreign Air Carrier Conducts Screening

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§ 1546.401 Applicability of this subpart.

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(a) *Foreign air carrier screening.* This subpart applies when the foreign air carrier is conducting inspections as provided in §1546.207(c).

(b) *Current screeners.* As used in this subpart, “current screener” means each individual who first performed screening functions before the date the foreign air carrier must begin use of the new screener training program provided by TSA. Until November 19, 2002, each current screener must comply with §1546.403. Until November 19, 2002, each foreign air carrier must apply §1546.403 for each current screener. On and after November 19, 2002, each current screener must comply with §§1546.405 through 1546.411, and each foreign air carrier must comply with §§1546.405 through 1546.411 for such individuals.

(c) *New screeners.* As used in this subpart, “new screener” means each individual who first performs screening functions on and after TSA orders the foreign air carrier to begin use of the new screener training program provided by TSA. Each foreign air carrier must apply §§1546.405 through 1546.411 for new screeners.

§ 1546.403 Current screeners.

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The foreign air carrier must ensure that each current screener it uses to perform screening functions meet the qualifications and training standards set forth in its security program. This section is no longer effective on and after November 19, 2002.

§ 1546.405 New screeners: Qualifications of screening personnel.

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(a) No individual subject to this subpart may perform a screening function unless that individual has the qualifications described in §§1546.405 through 1546.411. No foreign air carrier may use such an individual to

perform a screening function unless that person complies with the requirements of §§1546.405 through 1546.411.

(b) A screener must have a satisfactory or better score on a screener selection test administered by TSA.

(c) A screener must be a citizen of the United States.

(d) A screener must have a high school diploma, a General Equivalency Diploma, or a combination of education and experience that TSA has determined to be sufficient for the individual to perform the duties of the position.

(e) A screener must have basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(1) Screeners operating screening equipment must be able to distinguish on the screening equipment monitor the appropriate imaging standard specified in the foreign air carrier's security program.

(2) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

(3) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment at an active screening location.

(4) Screeners who perform physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, cargo, and other objects subject to screening.

(5) Screeners who perform pat-downs or hand-held metal detector searches of individuals must have sufficient dexterity and capability to thoroughly conduct those procedures over an individual's entire body.

(f) A screener must have the ability to read, speak, and write English well enough to—

(1) Carry out written and oral instructions regarding the proper performance of screening duties;

(2) Read English language identification media, credentials, airline tickets, documents, air waybills, invoices, and labels on items normally encountered in the screening process;

(3) Provide direction to and understand and answer questions from English-speaking individuals undergoing screening; and

(4) Write incident reports and statements and log entries into security records in the English language.

(g) At locations outside the United States that are the last point of departure to the United States, and where the foreign air carrier has operational control over a screening function, the foreign air carrier may use

screeners who do not meet the requirements of paragraph (f) of this section. At such locations the foreign air carrier may use screeners who are not United States citizens.

§ 1546.407 New screeners: Training, testing, and knowledge of individuals who perform screening functions.

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(a) *Training required.* Before performing screening functions, an individual must have completed initial, recurrent, and appropriate specialized training as specified in this section and the foreign air carrier's security program. No foreign air carrier may use any screener, screener in charge, or checkpoint security supervisor unless that individual has satisfactorily completed the required training. This paragraph does not prohibit the performance of screening functions during on-the-job training as provided in §1544.409(b).

(b) *Use of training programs.* Training for screeners must be conducted under programs provided by TSA. Training programs for screeners-in-charge and checkpoint security supervisors must be conducted in accordance with the foreign air carrier's security program.

(c) *Classroom instruction.* Each screener must complete at least 40 hours of classroom instruction or successfully complete a program that TSA determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction.

(d) *Screener readiness test.* Before beginning on-the-job training, a screener trainee must pass the screener readiness test prescribed by TSA.

(e) *On-the-job training and testing.* Each screener must complete at least 60 hours of on-the-job training and must pass an on-the-job training test prescribed by TSA. No foreign air carrier may permit a screener trainee to exercise independent judgment as a screener, until the individual passes an on-the-job training test prescribed by TSA.

(f) *Knowledge requirements.* Each foreign air carrier must ensure that individuals performing as screeners, screeners-in-charge, and checkpoint security supervisors for the foreign air carrier have knowledge of the provisions of this part, the foreign air carrier's security program, and applicable emergency amendments to the foreign air carrier's security program to the extent necessary to perform their duties.

§ 1546.409 New screeners: Integrity of screener tests.

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(a) *Cheating or other unauthorized conduct.* (1) Except as authorized by TSA, no person may—

(i) Copy or intentionally remove a test under this part;

- (ii) Give to another or receive from another any part or copy of that test;
 - (iii) Give help on that test to or receive help on that test from any person during the period that the test is being given; or
 - (iv) Use any material or aid during the period that the test is being given.
- (2) No person may take any part of that test on behalf of another person.
- (3) No person may cause, assist, or participate intentionally in any act prohibited by this paragraph (a).
- (b) Administering and monitoring screener tests.* (1) Each foreign air carrier must notify TSA of the time and location at which it will administer each screener readiness test required under §1544.405 (d).
- (2) Either TSA or the foreign air carrier must administer and monitor the screener readiness test. Where more than one foreign air carrier or foreign air carrier uses a screening location, TSA may authorize an employee of one or more of the foreign air carriers or foreign air carriers to monitor the test for a trainee who will screen at that location.
- (3) If TSA or a representative of TSA is not available to administer and monitor a screener readiness test, the foreign air carrier must provide a direct employee to administer and monitor the screener readiness test.
- (4) An foreign air carrier employee who administers and monitors a screener readiness test must not be an instructor, screener, screener-in-charge, checkpoint security supervisor, or other screening supervisor. The employee must be familiar with the procedures for administering and monitoring the test and must be capable of observing whether the trainee or others are engaging in cheating or other unauthorized conduct.

§ 1546.411 New screeners: Continuing qualifications for screening personnel.

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- (a) *Impairment.* No individual may perform a screening function if he or she shows evidence of impairment, such as impairment due to illegal drugs, sleep deprivation, medication, or alcohol.
- (b) *Training not complete.* An individual who has not completed the training required by §1546.405 may be deployed during the on-the-job portion of training to perform security functions provided that the individual—
- (1) Is closely supervised; and
 - (2) Does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(c) *Failure of operational test.* No foreign air carrier may use an individual to perform a screening function after that individual has failed an operational test related to that function, until that individual has successfully completed the remedial training specified in the foreign air carrier's security program.

(d) *Annual proficiency review.* Each individual assigned screening duties shall receive an annual evaluation. The foreign air carrier must conduct and document an annual evaluation of each individual who performs screening functions. An individual who performs screening functions may not continue to perform such functions unless the evaluation demonstrates that the individual—

(1) Continues to meet all qualifications and standards required to perform a screening function;

(2) Has a satisfactory record of performance and attention to duty based on the standards and requirements in the foreign air carrier's security program; and

(3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

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