

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 61, 63, and 65**

[Docket No.: FAA-2003-14293; Amendment Nos. 61-108, 63-32, 65-44]

RIN 2120-AH84

**Ineligibility for an Airman Certificate Based on Security Grounds**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This final rule expressly makes a person ineligible to hold FAA-issued airman certificates if the Transportation Security Administration notifies the FAA in writing that the person poses a security threat. This action is intended to reduce the opportunity for persons to carry out terrorist acts in the aviation environment.

**DATES:** Effective January 24, 2003. Submit comments by March 25, 2003.

**ADDRESSES:** Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590. You must identify the docket number FAA-2003-14293 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard. You may also submit comments through the Internet to <http://dms.dot.gov>.

You may review the public docket containing comments to these regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. You may also review public dockets on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Peter J. Lynch, Enforcement Division, AGC-300, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone No. (202) 267-3137.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and

Procedures of the Department of Transportation (DOT) (44 FR 1134; Feb 26, 1979) provide that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without notice. Accordingly, interested persons are invited to participate in the rulemaking by submitting written data, views, or arguments. Comments relating to the environmental, energy, federalism, or economic impact that might result from these amendments also are invited. Comments must include the docket number or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

The FAA will consider all comments received on or before the closing date for comments. Late-filed comments will be considered to the extent practicable. The final rule may be amended in light of the comments received.

**Availability of Rulemaking Documents**

You can get an electronic copy using the Internet by taking the following steps:

- (1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>).
- (2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."
- (3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at <http://www.faa.gov/avr/armhome.htm> or the Government Printing Office's Web page at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html).

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

**Small Business Regulatory Enforcement Fairness Act**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, <http://www.faa.gov/avr/arm/sbreffa.htm>. For more information on SBREFA, e-mail us 9-AWA-SBREFA@faa.gov.

**Background**

In response to the tragic events of September 11, 2001, Congress enacted and the President signed the Aviation and Transportation Security Act (ATSA), Public Law 107-71. This law created the Transportation Security Administration (TSA) under the direction of the Under Secretary of Transportation for Security. The Under Secretary is charged with responsibility for civil aviation security as well as security in other modes of transportation. Among other responsibilities, the Under Secretary is to receive, assess, and distribute intelligence information related to transportation security and to assess threats to transportation. The ATSA also directs the Under Secretary to establish procedures to notify the FAA Administrator of the identity of persons known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety.

The ATSA directs the Administrator to make modifications to the system for issuing airman certification to make the system more effective in serving the needs of officials responsible for enforcing laws related to combating acts of terrorism.

The Under Secretary receives information from intelligence sources that identify specific individuals who pose a security risk. In some cases, these individuals hold airman certificates issued by the FAA. On August 14, 2002, the Under Secretary advised the Administrator of 11 such individuals and asked the Administrator to revoke the airman certificates held by them. On August 20, the FAA took the requested action by issuing emergency orders of revocation. These orders became effective immediately.

By rulemakings published today in the **Federal Register**, the TSA has put in place processes for notifying an