

42nd Annual AAEE
Airport Law Workshop
Phoenix, AZ

Session 19

Airport Security Requirements and Alternatives



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Speakers



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Agenda

- Security Starts Here: Aviation Security Fundamentals
- Behind the Scenes: How Aviation Security Is Regulated
- The Next Generation Checkpoint: Modernization and Emerging Technologies
- What's New and What's Next: Key Updates for Airports

Key Statutory Authorities

Aviation and Transportation Security Act (ATSA),
Pub. L. No. 107-71 (2001)

- Created TSA following 9/11

Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002)

- Transferred to Department of Homeland Security

TSA Modernization Act, Pub. L. No. 115-254 (Oct. 5, 2018)

- Key updates related to technology, cybersecurity, *TSA PreCheck®*, canines, aviation worker screening, and other programs



Passenger Screening and Vetting

Screening

- 49 U.S.C. § 44901(a)
- TSA “shall provide for the screening of all passengers and property”
- Screening “shall be carried out by a Federal Government employee”
- ID Verification part of screening
- Acceptable ID List and REAL ID

Vetting

- Secure Flight – 49 C.F.R. part 1560
- Prescreening against Federal government watchlists– 49 U.S.C. § 44903(j)(2)
- TSA PreCheck®



Screening – 4th Amendment

Airport-Specific Considerations

- Screening considered administrative search
- Individual privacy expectations diminished at the screening checkpoint
- Passengers expect to verify ID and undergo screening of person/property



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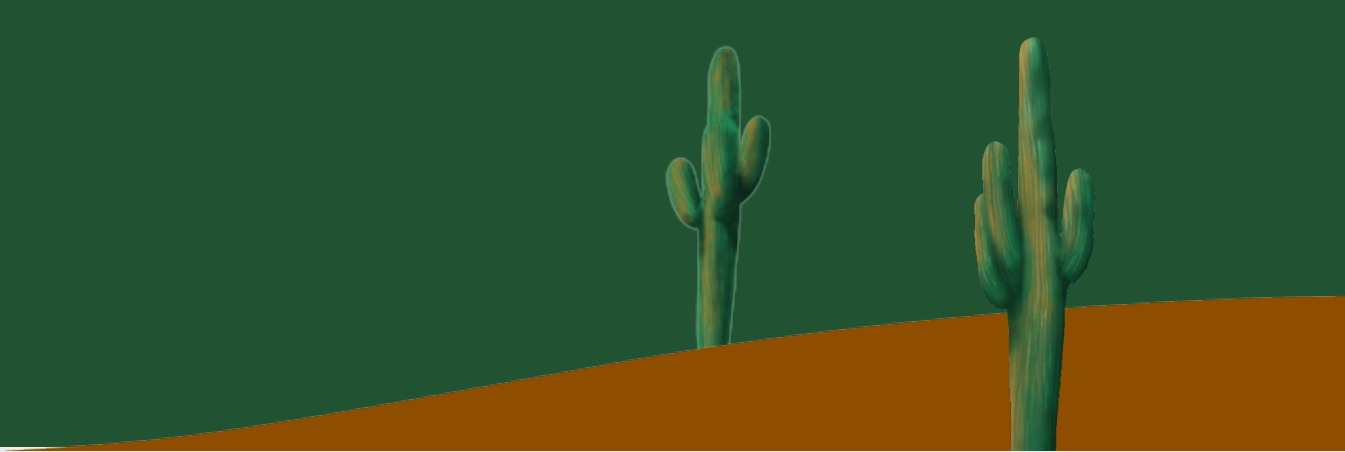
Security – Beyond the Checkpoint

Security Programs and Access Control

- Airport operators must maintain a security program; TSA may amend based on safety and the public interest (49 U.S.C. § 44903(c), 49 C.F.R. .1542.105)
- Persons with access to secure side of airport must have SIDA badges and undergo TSA background checks (49 U.S.C. § 114(f))
- TSA responsible for oversight of airport implementation of secure area access control and airport perimeter access security (49 U.S.C. § 44903(g) and (h))



Regulatory Oversight



Regulations

Airport Security Program

National Amendments and Emergency Amendments

Security Directives and Information Circulars

- TSA Regulations – 49 CFR chapter XII
- Airport Security Programs (ASP) – 49 C.F.R. part 1542
- National Amendments; Emergency Amendments – 49 C.F.R. 1542.105
- Security Directives (SD) and Information Circulars (IC) – 49 C.F.R. 1542.303
- Certain instruments are protected from disclosure as Sensitive Security Information (SSI) – 49 C.F.R. part 1520



Category X

Category I

Category II

Category III

Category IV



Five Commercial Airport Categories

- Largest and busiest (e.g., LAX, ATL) to the smallest commercial airports (seasonal or low volume)
- TSA classifies all airports in the United States that hold TSA-approved security programs into one of five airport security categories (X, I, II, III, and IV) based on various factors, including the number of annual enplanements, the type of aircraft operator served, and other special security considerations.
- The type of TSA security program required is dependent on the type of flight operations listed in 49 C.F.R. 1542.103, not the airport's "category."

General Aviation

General Aviation (GA) Security Guidelines

- Provide GA recommendations and risk-based security best practices for operators and users

National Capital Region

- DCA Access Standard Security Program
- Maryland-Three Program



Modernization – ID Verification

Digital ID

- Mobile Driver's Licenses Rulemaking – 89 Fed. Reg. 85340 (October 25, 2024)
- Platforms: Apple Wallet, Google Wallet, and Samsung Wallet or a state-issued app
- REAL ID

TSA Confirm ID

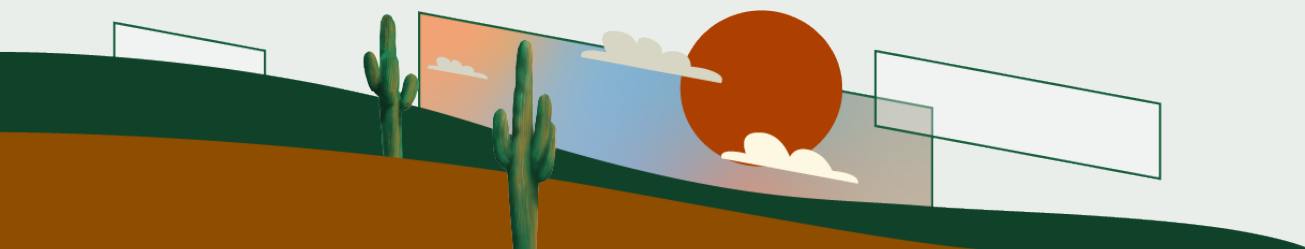
- If no [Acceptable Form of ID](#) (e.g., REAL ID, passport), passenger can choose to pay a \$45 fee to use TSA Confirm ID

Touchless ID

- Facial comparison technology available for TSA PreCheck®



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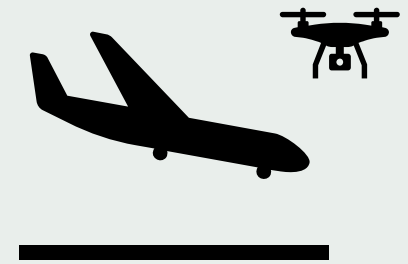


Other Initiatives

- **Evolved Screening Partnership Program**
 - TSA contracts security screening services at certain airports to private companies – 49 U.S.C. §§ 44901(a) and 44920
 - “Evolved” program announced as part of Horizon 25 Strategy
- **GateSide by TSA Pre-Check**
 - TSA PreCheck® members and those with KTNs may access the terminal without a boarding pass at participating airports
- **“One Stop Security” Pilot Program**
 - Collaboration with U.S. Customs and Border Protection (CBP) and the United Kingdom
 - Enables passengers arriving in the U.S. from certain foreign airports with connecting flights to be exempt from rescreening by TSA



Counter-Unmanned Aircraft Systems



C-UAS Authority

Statutory authority needed to use “C-UAS” to address drone threats (all mitigation; most detection)

Federal vs. State and Local Responsibilities

- *Preventing Emerging Threats Act of 2018*, Pub. L. No. 115-254 (Oct. 5, 2018)
- *Safer Skies Act*, Pub. L. No. 119-60, § 8602 (Dec. 18, 2025)
- DHS Interim Final Rule – 91 Fed. Reg. 41466 (July 6, 2026)

Detection Rules and Guidance

Remote Identification (14 CFR Part 89) – broadcast location and ID

Guidance:

- DOT/FAA law enforcement [guidance](#) and local authority [memorandum](#)
- DOT/DHS/DOJ detection legal [advisory](#)
- CISA detection technology [guidance](#)

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Questions?




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Thank You!




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