

Federal Aviation Administration” in introductory provisions.

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 44916. Assessments and evaluations

(a) PERIODIC ASSESSMENTS.—The Under Secretary of Transportation for Security shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Transportation Security Administration shall perform periodic audits of such assessments.

(b) INVESTIGATIONS.—The Under Secretary shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Under Secretary may provide for anonymous tests of those security systems.

(Added Pub. L. 104-264, title III, §312(a), Oct. 9, 1996, 110 Stat. 3253; amended Pub. L. 107-71, title I, §101(f)(3), (7), Nov. 19, 2001, 115 Stat. 603.)

#### AMENDMENTS

2001—Subsec. (a). Pub. L. 107-71, §101(f)(3), substituted “Under Secretary of Transportation for Security” for “Administrator” in first sentence and “Transportation Security Administration” for “Administration” in second sentence.

Subsec. (b). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in two places.

#### EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

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#### § 44917. Deployment of Federal air marshals

(a) IN GENERAL.—The Under Secretary of Transportation for Security under the authority provided by section 44903(d)—

(1) may provide for deployment of Federal air marshals on every passenger flight of air carriers in air transportation or intrastate air transportation;

(2) shall provide for deployment of Federal air marshals on every such flight determined by the Secretary to present high security risks;

(3) shall provide for appropriate training, supervision, and equipment of Federal air marshals;

(4) shall require air carriers providing flights described in paragraph (1) to provide seating for a Federal air marshal on any such flight without regard to the availability of seats on the flight and at no cost to the United States Government or the marshal;

(5) may require air carriers to provide, on a space-available basis, to an off-duty Federal air marshal a seat on a flight to the airport nearest the marshal’s home at no cost to the marshal or the United States Government if the marshal is traveling to that airport after completing his or her security duties;

(6) may enter into agreements with Federal, State, and local agencies under which appropriately-trained law enforcement personnel from such agencies, when traveling on a flight of an air carrier, will carry a firearm and be prepared to assist Federal air marshals;

(7) shall establish procedures to ensure that Federal air marshals are made aware of any armed or unarmed law enforcement personnel on board an aircraft; and

(8) may appoint—

(A) an individual who is a retired law enforcement officer;

(B) an individual who is a retired member of the Armed Forces; and

(C) an individual who has been furloughed from an air carrier crew position in the 1-year period beginning on September 11, 2001,

as a Federal air marshal, regardless of age, if the individual otherwise meets the background and fitness qualifications required for Federal air marshals.

(b) LONG DISTANCE FLIGHTS.—In making the determination under subsection (a)(2), nonstop, long distance flights, such as those targeted on September 11, 2001, should be a priority.

(c) INTERIM MEASURES.—Until the Under Secretary completes implementation of subsection (a), the Under Secretary may use, after consultation with and concurrence of the heads of other Federal agencies and departments, personnel from those agencies and departments, on a nonreimbursable basis, to provide air marshal service.

(d) TRAINING FOR FOREIGN LAW ENFORCEMENT PERSONNEL.—

(1) IN GENERAL.—The Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate air marshal training to law enforcement personnel of foreign countries.

(2) WATCHLIST SCREENING.—The Federal Air Marshal Service may only provide appropriate air marshal training to law enforcement per-

sonnel of foreign countries after comparing the identifying information and records of law enforcement personnel of foreign countries against all appropriate records in the consolidated and integrated terrorist watchlists maintained by the Federal Government.

(3) FEES.—The Assistant Secretary shall establish reasonable fees and charges to pay expenses incurred in carrying out this subsection. Funds collected under this subsection shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Assistant Secretary for purposes for which amounts in such account are available.

(Added Pub. L. 107–71, title I, §105(a), Nov. 19, 2001, 115 Stat. 606; amended Pub. L. 108–458, title IV, §4018, Dec. 17, 2004, 118 Stat. 3721.)

#### AMENDMENTS

2004—Subsec. (d). Pub. L. 108–458 added subsec. (d).

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#### FEDERAL AIR MARSHALS

Pub. L. 108–458, title IV, §4016, Dec. 17, 2004, 118 Stat. 3720, provided that:

“(a) FEDERAL AIR MARSHAL ANONYMITY.—The Director of the Federal Air Marshal Service of the Department of Homeland Security shall continue operational initiatives to protect the anonymity of Federal air marshals.

“(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Bureau of Immigration and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal air marshals under section 44917 of title 49, United States Code, \$83,000,000 for the 3 fiscal-year period beginning with fiscal year 2005. Such sums shall remain available until expended.

“(c) FEDERAL LAW ENFORCEMENT COUNTERTERRORISM TRAINING.—

“(1) AVAILABILITY OF INFORMATION.—The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, shall make available, as practicable, appropriate information on in-flight counterterrorism and weapons handling procedures and tactics training to Federal law enforcement officers who fly while in possession of a firearm.

“(2) IDENTIFICATION OF FRAUDULENT DOCUMENTS.—The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall ensure that Transportation Security Administration screeners and Federal air marshals receive training in identifying fraudulent identification documents, including fraudulent or expired visas and passports. Such training shall also be made available to other Federal law enforcement agencies and local law enforcement agencies located in a State that borders Canada or Mexico.”

#### § 44918. Crew training

(a) BASIC SECURITY TRAINING.—

(1) IN GENERAL.—Each air carrier providing scheduled passenger air transportation shall carry out a training program for flight and cabin crew members to prepare the crew members for potential threat conditions.

(2) PROGRAM ELEMENTS.—An air carrier training program under this subsection shall include, at a minimum, elements that address each of the following:

(A) Recognizing suspicious activities and determining the seriousness of any occurrence.

(B) Crew communication and coordination.

(C) The proper commands to give passengers and attackers.

(D) Appropriate responses to defend oneself.

(E) Use of protective devices assigned to crew members (to the extent such devices are required by the Administrator of the Federal Aviation Administration or the Under Secretary for Border and Transportation Security of the Department of Homeland Security).

(F) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(G) Situational training exercises regarding various threat conditions.

(H) Flight deck procedures or aircraft maneuvers to defend the aircraft and cabin crew responses to such procedures and maneuvers.

(I) The proper conduct of a cabin search, including explosive device recognition.

(J) Any other subject matter considered appropriate by the Under Secretary.

(3) APPROVAL.—An air carrier training program under this subsection shall be subject to approval by the Under Secretary.

(4) MINIMUM STANDARDS.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary may establish minimum standards for the training provided under this subsection and for recurrent training.

(5) EXISTING PROGRAMS.—Notwithstanding paragraphs (3) and (4), any training program of an air carrier to prepare flight and cabin crew members for potential threat conditions that was approved by the Administrator or the Under Secretary before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act may continue in effect until disapproved or ordered modified by the Under Secretary.

(6) MONITORING.—The Under Secretary, in consultation with the Administrator, shall monitor air carrier training programs under this subsection and periodically shall review an air carrier’s training program to ensure that the program is adequately preparing crew members for potential threat conditions. In determining when an air carrier’s training program should be reviewed under this paragraph, the Under Secretary shall consider complaints from crew members. The Under Secretary shall ensure that employees responsible for monitoring the training programs have the necessary resources and knowledge.