

prehensively assess the appropriateness of commencing such preclearance operations.

(c) Certifications relating to preclearance operations established at airports

Not later than 60 days before an agreement with the government of a foreign country to establish U.S. Customs and Border Protection preclearance operations at an airport in such country enters into force, the Secretary, in addition to complying with the notification requirements under subsections (a) and (b), shall provide the appropriate congressional committees with—

(1) a certification that preclearance operations under such preclearance agreement, after considering alternative options, would provide homeland security benefits to the United States through the most effective means possible;

(2) a certification that preclearance operations within such foreign country will be established under such agreement only if—

(A) at least one United States passenger carrier operates at such airport; and

(B) any United States passenger carriers operating at such airport and desiring to participate in preclearance operations are provided access that is comparable to that of any non-United States passenger carrier operating at that airport;

(3) a certification that the establishment of preclearance operations in such foreign country will not significantly increase customs processing times at United States airports;

(4) a certification that representatives from U.S. Customs and Border Protection consulted with stakeholders, including providers of commercial air service in the United States, employees of such providers, security experts, and such other parties as the Secretary determines to be appropriate; and

(5) a report detailing the basis for the certifications referred to in paragraphs (1) through (4).

(d) Amendment of existing agreements

Not later than 30 days before a substantially amended preclearance agreement with the government of a foreign country in effect as of February 24, 2016, enters into force, the Secretary shall provide to the appropriate congressional committees—

- (1) a copy of the agreement, as amended; and
- (2) the justification for such amendment.

(e) Implementation plan

(1) In general

The Commissioner shall report to the appropriate congressional committees, on a quarterly basis—

(A) the number of U.S. Customs and Border Protection officers, by port, assigned from domestic ports of entry to preclearance operations; and

(B) the number of the positions at domestic ports of entry vacated by U.S. Customs and Border Protection officers described in subparagraph (A) that have been filled by other hired, trained, and equipped U.S. Customs and Border Protection officers.

(2) Submission

If the Commissioner has not filled the positions of U.S. Customs and Border Protection

officers that were reassigned to preclearance operations and determines that U.S. Customs and Border Protection processing times at domestic ports of entry from which U.S. Customs and Border Protection officers were reassigned to preclearance operations have significantly increased, the Commissioner, not later than 60 days after making such a determination, shall submit to the appropriate congressional committees an implementation plan for reducing processing times at the domestic ports of entry with such increased processing times.

(3) Suspension

If the Commissioner does not submit the implementation plan described in paragraph (2) to the appropriate congressional committees before the deadline set forth in such paragraph, the Commissioner may not commence preclearance operations at an additional port of entry in any country until such implementation plan is submitted.

(f) Classified report

The report required under subsection (c)(5) may be submitted in classified form if the Secretary determines that such form is appropriate.

(Pub. L. 114-125, title VIII, § 814, Feb. 24, 2016, 130 Stat. 218.)

§ 4434. Lost and stolen passports

The Secretary may not enter into an agreement with the government of a foreign country to establish or maintain U.S. Customs and Border Protection preclearance operations at an airport in such country unless the Secretary certifies to the appropriate congressional committees that such government—

(1) routinely submits information about lost and stolen passports of its citizens and nationals to INTERPOL's Stolen and Lost Travel Document database; or

(2) makes such information available to the United States Government through another comparable means of reporting.

(Pub. L. 114-125, title VIII, § 816, Feb. 24, 2016, 130 Stat. 220.)

§ 4435. Recovery of initial U.S. Customs and Border Protection preclearance operations costs

(a) Cost sharing agreements with relevant airport authorities

The Commissioner may enter into a cost sharing agreement with airport authorities in foreign countries at which preclearance operations are to be established or maintained if—

(1) an executive agreement to establish or maintain such preclearance operations pursuant to the authorities under section 1629 of this title and section 1103(a)(7) of title 8 has been signed, but has not yet entered into force; and

(2) U.S. Customs and Border Protection has incurred, or expects to incur, initial preclearance operations costs in order to establish or maintain preclearance operations under the agreement described in paragraph (1).

(b) Contents of cost sharing agreements**(1) In general**

Notwithstanding section 58c(e) of this title and section 1356(g) of title 8, any cost sharing agreement with an airport authority authorized under subsection (a) may provide for the airport authority's payment to U.S. Customs and Border Protection of its initial preclearance operations costs.

(2) Timing of payments

The airport authority's payment to U.S. Customs and Border Protection for its initial preclearance operations costs may be made in advance of the incurrence of the costs or on a reimbursable basis.

(c) Account**(1) In general**

All amounts collected pursuant to any cost sharing agreement authorized under subsection (a)—

(A) shall be credited as offsetting collections to the currently applicable appropriation, account, or fund of U.S. Customs and Border Protection;

(B) shall remain available, until expended, for the purposes for which such appropriation, account, or fund is authorized to be used; and

(C) may be collected and shall be available only to the extent provided in appropriations Acts.

(2) Return of unused funds

Any advances or reimbursements not used by U.S. Customs and Border Protection may be returned to the relevant airport authority.

(3) Rule of construction

Nothing in this subsection may be construed to preclude the use of appropriated funds from sources other than the payments collected under this subchapter to pay initial preclearance operation costs.

(d) Defined term**(1) In general**

In this section, the term “initial preclearance operations costs” means the costs incurred, or expected to be incurred, by U.S. Customs and Border Protection to establish or maintain preclearance operations at an airport in a foreign country, including costs relating to—

(A) hiring, training, and equipping new U.S. Customs and Border Protection officers who will be stationed at United States domestic ports of entry or other U.S. Customs and Border Protection facilities to backfill U.S. Customs and Border Protection officers to be stationed at an airport in a foreign country to conduct preclearance operations; and

(B) visits to the airport authority conducted by U.S. Customs and Border Protection personnel necessary to prepare for the establishment or maintenance of preclearance operations at such airport, including the compensation, travel expenses, and allowances payable to such personnel attributable to such visits.

(2) Exception

The costs described in paragraph (1)(A) shall not include the salaries and benefits of new U.S. Customs and Border Protection officers once such officers are permanently stationed at a domestic United States port of entry or other domestic U.S. Customs and Border Protection facility after being hired, trained, and equipped.

(e) Rule of construction

Except as otherwise provided in this section, nothing in this section may be construed as affecting the responsibilities, duties, or authorities of U.S. Customs and Border Protection.

(Pub. L. 114–125, title VIII, §817, Feb. 24, 2016, 130 Stat. 220.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(3), was in the original “this subtitle”, meaning subtitle B (§§811–819) of title VIII of Pub. L. 114–125, which is classified principally to this subchapter. For complete classification of subtitle B to the Code, see Short Title note set out under section 4301 of this title and Tables.

§4436. Application to new and existing preclearance operations

Except for sections 814(d) [19 U.S.C. 4433(d)], 815, 817 [19 U.S.C. 4435], and 818, this subchapter shall only apply to the establishment of preclearance operations in a foreign country in which no preclearance operations have been established as of February 24, 2016.

(Pub. L. 114–125, title VIII, §819, Feb. 24, 2016, 130 Stat. 222.)

REFERENCES IN TEXT

Sections 815 and 818, referred to in text, are sections 815 and 818 of Pub. L. 114–125. Section 815 amended section 44901 of Title 49, Transportation. Section 818 amended section 8311 of Title 7, Agriculture, and section 1356 of Title 8, Aliens and Nationality.

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle B (§§811–819) of title VIII of Pub. L. 114–125, which is classified principally to this subchapter. For complete classification of subtitle B to the Code, see Short Title note set out under section 4301 of this title and Tables.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

§4451. Report on certain U.S. Customs and Border Protection agreements**(a) In general**

Not later than one year after entering into an agreement under a program specified in subsection (b), and annually thereafter until the termination of the program, the Commissioner shall submit to the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Ways and Means and the Committee on Homeland Security of the House of Representatives a report that includes the following:

(1) A description of the development of the program, including an identification of the authority under which the program operates.

(2) A description of the type of entity with which U.S. Customs and Border Protection en-