

## HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44934(c) .....	49 App.:1358b(b)(5).	

In subsection (a), the words “Not later than 90 days after November 16, 1990” are omitted as obsolete. The words “shall designate” are substituted for “shall begin assigning” for consistency with the source provisions restated in section 44933 of the revised title and because of the restatement. The words “Not later than 2 years after November 16, 1990” are omitted as obsolete. The word “designate” is substituted for “assign” for consistency with the source provisions restated in section 44933 of the revised title. The words “outside the United States” are omitted as unnecessary.

In subsection (b), before clause (1), the words “to the office of” are omitted as unnecessary. In clause (1), the words “governments of foreign countries and foreign airport authorities” are substituted for “foreign governments and airport authorities” for clarity and consistency in the revised title and with other titles of the United States Code. In clause (2), the words “duties and powers” are substituted for “responsibilities” for consistency in the revised title and with other titles of the Code.

In subsection (c), the words “duties and powers” are substituted for “authorities” for clarity and consistency in the revised title and with other titles of the Code.

**Editorial Notes****AMENDMENTS**

2018—Subsec. (a). Pub. L. 115-254, §1991(d)(25)(A), substituted “Administrator of the Transportation Security Administration” for “Under Secretary of Transportation for Security”, “airports. In coordination with the Secretary of State” for “airports. In coordination with the Secretary”, “The Secretary of State shall give high priority” for “The Secretary shall give high priority”, and, wherever appearing, “Administrator” for “Under Secretary”.

Subsec. (b). Pub. L. 115-254, §1991(d)(25)(B)(i), substituted “Administrator of the Transportation Security Administration” for “Under Secretary” in introductory provisions.

Subsec. (b)(1). Pub. L. 115-254, §1991(d)(25)(B)(ii), substituted “Administrator” for “Under Secretary”.

Subsec. (c). Pub. L. 115-254, §1991(d)(25)(C), substituted “the Secretary of State and the chief” for “the Secretary and the chief”.

2001—Subsec. (a). Pub. L. 107-71, §101(f)(7), (9), substituted “Under Secretary” for “Administrator” wherever appearing and “of Transportation for Security” for “of the Federal Aviation Administration”.

Subsec. (b). Pub. L. 107-71, §101(f)(4), substituted “Under Secretary” for “Assistant Administrator for Civil Aviation Security” in introductory provisions.

Subsec. (b)(1). Pub. L. 107-71, §101(f)(5), substituted “Under Secretary” for “Assistant Administrator”.

**§ 44935. Employment standards and training**

(a) **EMPLOYMENT STANDARDS.**—The Administrator shall prescribe standards for the employment and continued employment of, and contracting for, air carrier personnel and, as appropriate, airport security personnel. The standards shall include—

- (1) minimum training requirements for new employees;
- (2) retraining requirements;
- (3) minimum staffing levels;
- (4) minimum language skills; and
- (5) minimum education levels for employees, when appropriate.

(b) **REVIEW AND RECOMMENDATIONS.**—In coordination with air carriers, airport operators, and other interested persons, the Administrator shall review issues related to human performance in the aviation security system to maximize that performance. When the review is completed, the Administrator shall recommend guidelines and prescribe appropriate changes in existing procedures to improve that performance.

(c) **SECURITY PROGRAM TRAINING, STANDARDS, AND QUALIFICATIONS.**—(1) The Administrator—

(A) may train individuals employed to carry out a security program under section 44903(c) of this title; and

(B) shall prescribe uniform training standards and uniform minimum qualifications for individuals eligible for that training.

(2) The Administrator may authorize reimbursement for travel, transportation, and subsistence expenses for security training of non-United States Government domestic and foreign individuals whose services will contribute significantly to carrying out civil aviation security programs. To the extent practicable, air travel reimbursed under this paragraph shall be on air carriers.

(d) **EDUCATION AND TRAINING STANDARDS FOR SECURITY COORDINATORS, SUPERVISORY PERSONNEL, AND PILOTS.**—(1) The Administrator shall prescribe standards for educating and training—

(A) ground security coordinators;

(B) security supervisory personnel; and

(C) airline pilots as in-flight security coordinators.

(2) The standards shall include initial training, retraining, and continuing education requirements and methods. Those requirements and methods shall be used annually to measure the performance of ground security coordinators and security supervisory personnel.

(e) **SECURITY SCREENERS.**—

(1) **TRAINING PROGRAM.**—The Administrator shall establish a program for the hiring and training of security screening personnel.

(2) **HIRING.**—

(A) **QUALIFICATIONS.**—The Administrator shall establish qualification standards for individuals to be hired by the United States as security screening personnel. Notwithstanding any other provision of law, those standards shall require, at a minimum, an individual—

(i) to have a satisfactory or better score on a Federal security screening personnel selection examination;

(ii) to be a citizen of the United States or a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(iii) to meet, at a minimum, the requirements set forth in subsection (f);

(iv) to meet such other qualifications as the Administrator may establish; and

(v) to have the ability to demonstrate daily a fitness for duty without any impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(B) BACKGROUND CHECKS.—The Administrator shall require that an individual to be hired as a security screener undergo an employment investigation (including a criminal history record check) under section 44936(a)(1).

(C) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Administrator, in consultation with the heads of other appropriate Federal agencies, shall establish procedures, in addition to any background check conducted under section 44936, to ensure that no individual who presents a threat to national security is employed as a security screener.

(3) EXAMINATION; REVIEW OF EXISTING RULES.—The Administrator shall develop a security screening personnel examination for use in determining the qualification of individuals seeking employment as security screening personnel. The Administrator shall also review, and revise as necessary, any standard, rule, or regulation governing the employment of individuals as security screening personnel.

(f) EMPLOYMENT STANDARDS FOR SCREENING PERSONNEL.—

(1) SCREENER REQUIREMENTS.—Notwithstanding any other provision of law, an individual may not be deployed as a security screener unless that individual meets the following requirements:

(A) The individual shall possess a high school diploma, a general equivalency diploma, or experience that the Administrator has determined to be sufficient for the individual to perform the duties of the position.

(B) The individual shall possess basic aptitudes and physical abilities, including color perception, visual and aural acuity, physical coordination, and motor skills, to the following standards:

(i) Screeners operating screening equipment shall be able to distinguish on the screening equipment monitor the appropriate imaging standard specified by the Administrator.

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

(iii) Screeners shall be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment in an active checkpoint environment.

(iv) Screeners performing physical searches or other related operations shall be able to efficiently and thoroughly manipulate and handle such baggage, containers, and other objects subject to security processing.

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

(C) The individual shall be able to read, speak, and write English well enough to—

(i) carry out written and oral instructions regarding the proper performance of screening duties;

(ii) read English language identification media, credentials, airline tickets, and labels on items normally encountered in the screening process;

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

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

(D) The individual shall have satisfactorily completed all initial, recurrent, and appropriate specialized training required by the security program, except as provided in paragraph (3).

(2) VETERANS PREFERENCE.—The Administrator shall provide a preference for the hiring of an individual as a security screener if the individual is a member or former member of the armed forces and if the individual is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member of the armed forces.

(3) EXCEPTIONS.—An individual who has not completed the training required by this section may be deployed during the on-the-job portion of training to perform functions if that individual—

(A) is closely supervised; and

(B) does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(4) REMEDIAL TRAINING.—No individual employed as a security screener may 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 security program.

(5) ANNUAL PROFICIENCY REVIEW.—The Administrator shall provide that an annual evaluation of each individual assigned screening duties is conducted and documented. An individual employed as a security screener may not continue to be employed in that capacity unless the evaluation demonstrates that the individual—

(A) continues to meet all qualifications and standards required to perform a screening function;

(B) has a satisfactory record of performance and attention to duty based on the standards and requirements in the security program; and

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

(6) OPERATIONAL TESTING.—In addition to the annual proficiency review conducted under paragraph (5), the Administrator shall provide for the operational testing of such personnel.

(g) TRAINING.—

(1) USE OF OTHER AGENCIES.—The Administrator may enter into a memorandum of un-

derstanding or other arrangement with any other Federal agency or department with appropriate law enforcement responsibilities, to provide personnel, resources, or other forms of assistance in the training of security screening personnel.

(2) TRAINING PLAN.—The Administrator shall develop a plan for the training of security screening personnel. The plan shall require, at a minimum, that a security screener—

(A) has completed 40 hours of classroom instruction or successfully completed a program that the Administrator determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction;

(B) has completed 60 hours of on-the-job instructions; and

(C) has successfully completed an on-the-job training examination prescribed by the Administrator.

(3) EQUIPMENT-SPECIFIC TRAINING.—An individual employed as a security screener may not use any security screening device or equipment in the scope of that individual's employment unless the individual has been trained on that device or equipment and has successfully completed a test on the use of the device or equipment.

(h) TECHNOLOGICAL TRAINING.—

(1) IN GENERAL.—The Administrator shall require training to ensure that screeners are proficient in using the most up-to-date new technology and to ensure their proficiency in recognizing new threats and weapons.

(2) PERIODIC ASSESSMENTS.—The Administrator shall make periodic assessments to determine if there are dual use items and inform security screening personnel of the existence of such items.

(3) CURRENT LISTS OF DUAL USE ITEMS.—Current lists of dual use items shall be part of the ongoing training for screeners.

(4) DUAL USE DEFINED.—For purposes of this subsection, the term “dual use” item means an item that may seem harmless but that may be used as a weapon.

(i) LIMITATION ON RIGHT TO STRIKE.—An individual that screens passengers or property, or both, at an airport under this section may not participate in a strike, or assert the right to strike, against the person (including a governmental entity) employing such individual to perform such screening.

(j) UNIFORMS.—The Administrator shall require any individual who screens passengers and property pursuant to section 44901 to be attired while on duty in a uniform approved by the Administrator.

(k) ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.—The Administrator shall work with air carriers and airports to ensure that computer-based training facilities intended for use by security screeners at an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation are conveniently located for that airport and easily accessible.

(l)<sup>1</sup> INITIAL AND RECURRING TRAINING.—

(1) IN GENERAL.—The Administrator shall establish a training program for new security screening personnel located at the Transportation Security Administration Academy.

(2) RECURRING TRAINING.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of the TSA Modernization Act, the Administrator shall establish recurring training for security screening personnel regarding updates to screening procedures and technologies, including, in response to weaknesses identified in covert tests at airports—

(i) methods to identify the verification of false or fraudulent travel documents; and

(ii) training on emerging threats.

(B) CONTENTS.—The training under subparagraph (A) shall include—

(i) internal controls for monitoring and documenting compliance of transportation security officers with such training requirements; and

(ii) such other matters as identified by the Administrator with regard to such training.

(l)<sup>1</sup> DEFINITION OF ADMINISTRATOR.—In this section, the term “Administrator” means the Administrator of the Transportation Security Administration.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1217; Pub. L. 106-528, § 3, Nov. 22, 2000, 114 Stat. 2519; Pub. L. 107-71, title I, §§ 101(f)(7), (9), 111(a), Nov. 19, 2001, 115 Stat. 603, 616; Pub. L. 107-296, title XVI, § 1603, Nov. 25, 2002, 116 Stat. 2313; Pub. L. 115-254, div. K, title I, §§ 1948(a), 1991(d)(26), Oct. 5, 2018, 132 Stat. 3587, 3638.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44935(a) .....	49 App.:1357(h).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 316(h)-(j); added Nov. 16, 1990, Pub. L. 101-604, § 105(a), 104 Stat. 3073.
44935(b) .....	49 App.:1357(i).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 316(c); added Aug. 5, 1974, Pub. L. 93-366, § 202, 88 Stat. 416; Oct. 31, 1992, Pub. L. 102-581, § 202, 106 Stat. 4890.
44935(c) .....	49 App.:1357(c).	
44935(d) .....	49 App.:1357(j).	

In subsection (a), before clause (1), the words “Not later than 270 days after November 16, 1990” are omitted as obsolete. The words “contracting for” are substituted for “contracting of” for clarity and consistency in the revised title.

In subsection (c)(1)(A), the words “individuals employed” are substituted for “personnel employed by him . . . and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized” for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (c)(1)(B), the words “individuals eligible” are substituted for “personnel whose services are utilized to enforce any such transportation security program, including State, local, and private law enforcement personnel . . . for personnel eligible” for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(2), the words “under this section” are omitted as unnecessary. The words “United States”

<sup>1</sup> So in original. Two subses. (l) have been enacted.

before “air carriers” are omitted because of the definition of “air carrier” in section 40102(a) of the revised title.

In subsection (d)(1), before clause (A), the words “Not later than 180 days after November 16, 1990” are omitted as obsolete.

### Editorial Notes

#### REFERENCES IN TEXT

The date of enactment of the TSA Modernization Act, referred to in subsec. (l)(2)(A), is the date of enactment of title I of div. K of Pub. L. 115–254, which was approved Oct. 5, 2018.

#### AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(26)(E), substituted “Administrator” for “Under Secretary” wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(d)(26)(A), substituted “Administrator” for “Under Secretary of Transportation for Security” in introductory provisions.

Subsec. (e)(1). Pub. L. 115–254, §1991(d)(26)(B)(i), substituted “Administrator” for “Under Secretary of Transportation for Security”.

Subsec. (e)(2)(A). Pub. L. 115–254, §1991(d)(26)(B)(ii)(I), in introductory provisions, substituted “The” for “Within 30 days after the date of enactment of the Aviation and Transportation Security Act, the” and inserted “other” before “provision of law”.

Subsec. (e)(2)(A)(ii). Pub. L. 115–254, §1991(d)(26)(B)(ii)(II), which directed substitution of “section 101(a)(22)” for “section 1102(a)(22)”, was executed by making the substitution for “section 1101(a)(22)”, to reflect the probable intent of Congress.

Subsec. (f)(1). Pub. L. 115–254, §1991(d)(26)(C), inserted “other” before “provision of law” in introductory provisions.

Subsec. (g)(2). Pub. L. 115–254, §1991(d)(26)(D), substituted “The” for “Within 60 days after the date of enactment of the Aviation and Transportation Security Act, the” in introductory provisions.

Subsec. (k). Pub. L. 115–254, §1948(a)(1), which directed the redesignation of subsec. (i) relating to accessibility of computer-based training facilities as (k) by substituting “(k) ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.—” for “(i) ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.—”, was executed by making the substitution for “(i) ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.—” to reflect the probable intent of Congress.

Subsec. (l). Pub. L. 115–254, §1991(d)(26)(F), added subsec. (l) defining “Administrator”.

Pub. L. 115–254, §1948(a)(2), added subsec. (l) relating to initial and recurring training.

2002—Subsec. (e)(2)(A)(ii). Pub. L. 107–296 substituted “citizen of the United States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))” for “citizen of the United States”.

2001—Subsec. (a). Pub. L. 107–71, §101(f)(7), (9), substituted “Under Secretary of Transportation for Security” for “Administrator of the Federal Aviation Administration” in introductory provisions.

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

Subsec. (c). Pub. L. 107–71, §101(f)(7), substituted “Under Secretary” for “Administrator” in introductory provisions of par. (1) and in par. (2).

Subsec. (d)(1). Pub. L. 107–71, §101(f)(7), substituted “Under Secretary” for “Administrator” in introductory provisions.

Subsec. (e). Pub. L. 107–71, §111(a)(2), added subsec. (e) and struck out former subsec. (e) which established training standards for screeners.

Subsec. (f). Pub. L. 107–71, §111(a)(2), added subsec. (f). Former subsec. (f) redesignated (i).

Pub. L. 107–71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsecs. (g), (h). Pub. L. 107–71, §111(a)(2), added subsecs. (g) and (h).

Subsec. (i). Pub. L. 107–71, §111(a)(2), added subsec. (i) relating to limitation on right to strike.

Pub. L. 107–71, §111(a)(1), redesignated subsec. (f) as (i) relating to accessibility of computer-based training facilities.

Subsec. (j). Pub. L. 107–71, §111(a)(2), added subsec. (j). 2000—Subsecs. (e), (f). Pub. L. 106–528 added subsecs. (e) and (f).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

#### TRANSITION

Pub. L. 107–71, title I, §111(c), Nov. 19, 2001, 115 Stat. 620, provided that: “The Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] shall complete the full implementation of section 44935 (e), (f), (g), and (h) of title 49, United States Code, as amended by subsection (a), as soon as is practicable. The Under Secretary may make or continue such arrangements for the training of security screeners under that section as the Under Secretary determines necessary pending full implementation of that section as so amended.”

#### IMPROVEMENT OF SCREENER JOB PERFORMANCE

Pub. L. 108–458, title IV, §4015, Dec. 17, 2004, 118 Stat. 3720, provided that:

“(a) REQUIRED ACTION.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to improve the job performance of airport screening personnel.

“(b) HUMAN FACTORS STUDY.—In carrying out this section, the Assistant Secretary shall provide, not later than 180 days after the date of the enactment of this Act [Dec. 17, 2004], to the appropriate congressional committees a report on the results of any human factors study conducted by the Department of Homeland Security to better understand problems in screener performance and to improve screener performance.”

[For definitions of “airport” and “appropriate congressional committees” used in section 4015 of Pub. L. 108–458, set out above, see section 4081 of Pub. L. 108–458, set out as a note under section 44901 of this title.]

#### SCREENER PERSONNEL

Pub. L. 107–71, title I, §111(d), Nov. 19, 2001, 115 Stat. 620, as amended by Pub. L. 112–171, §1(a), Aug. 16, 2012, 126 Stat. 1306; Pub. L. 116–92, div. F, title LXXXVI, §7606, Dec. 20, 2019, 133 Stat. 2309, provided that:

“(1) GENERAL AUTHORITY.—Except as provided in paragraph (2), and notwithstanding any other provision of law, the Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the Under Secretary determines to be necessary to carry out the screening functions of the Under Secretary under section 44901 of title 49, United States Code. The Under Secretary shall establish levels of compensation and other benefits for individuals so employed.

“(2) EXCEPTIONS.—

“(A) REEMPLOYMENT.—In carrying out the functions authorized under paragraph (1), the Under Secretary shall be subject to the provisions set forth in chapter 43 of title 38, United States Code.

“(B) LEAVE.—The provisions of subchapter V of chapter 63 of title 5, United States Code, shall apply to any individual appointed under paragraph (1) as if such individual were an employee (within the meaning of subparagraph (A) of section 6381(1) of such title).”

[Pub. L. 112-171, §1(b), Aug. 16, 2012, 126 Stat. 1306, provided that: “The amendments made by subsection (a) [amending section 111(d) of Pub. L. 107-71, set out above] shall take effect on the date that is 270 days after the date of the enactment of this Act [Aug. 16, 2012].”]

#### CERTIFICATION OF SCREENING COMPANIES

Pub. L. 104-264, title III, §302, Oct. 9, 1996, 110 Stat. 3250, provided that: “The Administrator of the Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.”

#### STUDIES OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS AND OF PAY FOR TRAINING

Pub. L. 104-264, title V, §503, Oct. 9, 1996, 110 Stat. 3263, provided that the Administrator of the Federal Aviation Administration would appoint a task force consisting of appropriate representatives of the aviation industry to study the development of standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of applicants for employment as a pilot by an air carrier, the standards and criteria for pilot training facilities to be licensed by the Administrator, and to determine if the practice of some air carriers to require employees or prospective employees to pay for necessary training or experience was in the public interest; and provided that, not later than 1 year after Oct. 9, 1996, the Administrator would send Congress a report on the results of the studies.

#### STUDY OF MINIMUM FLIGHT TIME

Pub. L. 104-264, title V, §504, Oct. 9, 1996, 110 Stat. 3263, required the Administrator of the Federal Aviation Administration to conduct a study to determine the sufficiency of existing minimum flight time requirements for individuals seeking employment as pilots with air carriers and to report to Congress on the study results not later than 1 year after Oct. 9, 1996.

### § 44936. Employment investigations and restrictions

(a) EMPLOYMENT INVESTIGATION REQUIREMENT.—(1)(A) The Administrator shall require by regulation that an employment investigation, including a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Administrator, shall be conducted of each individual employed in, or applying for, a position as a security screener under section 44935(e) or a position in which the individual has unescorted access, or may permit other individuals to have unescorted access, to—

- (i) aircraft of an air carrier or foreign air carrier; or
- (ii) a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier.

(B) The Administrator shall require by regulation that an employment investigation (includ-

ing a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Administrator) be conducted for—

(i) individuals who are responsible for screening passengers or property under section 44901 of this title;

(ii) supervisors of the individuals described in clause (i);

(iii) individuals who regularly have escorted access to aircraft of an air carrier or foreign air carrier or a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier; and

(iv) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

(C) EXEMPTION.—An employment investigation, including a criminal history record check, shall not be required under this subsection for an individual who is exempted under section 107.31(m)(1) or (2) of title 14, Code of Federal Regulations, as in effect on November 22, 2000. The Administrator shall work with the International Civil Aviation Organization and with appropriate authorities of foreign countries to ensure that individuals exempted under this subparagraph do not pose a threat to aviation or national security.

(2) An air carrier, foreign air carrier, airport operator, or government that employs, or authorizes or makes a contract for the services of, an individual in a position described in paragraph (1) of this subsection shall ensure that the investigation the Administrator requires is conducted.

(3) The Administrator shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.

(b) PROHIBITED EMPLOYMENT.—(1) Except as provided in paragraph (3) of this subsection, an air carrier, foreign air carrier, airport operator, or government may not employ, or authorize or make a contract for the services of, an individual in a position described in subsection (a)(1) of this section if—

(A) the investigation of the individual required under this section has not been conducted; or

(B) the results of that investigation establish that, in the 10-year period ending on the date of the investigation, the individual was convicted (or found not guilty by reason of insanity) of—

(i) a crime referred to in section 46306, 46308, 46312, 46314, or 46315 or chapter 465 of this title or section 32 of title 18;

(ii) murder;

(iii) assault with intent to murder;

(iv) espionage;

(v) sedition;

(vi) treason;

(vii) rape;

(viii) kidnapping;

(ix) unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(x) extortion;