

the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Administrator requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of the Administrator to impose additional security measures on a foreign air carrier or an air carrier when the Administrator determines that a specific threat warrants such additional measures. The Administrator shall prescribe regulations to carry out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1208; Pub. L. 104–132, title III, §322, Apr. 24, 1996, 110 Stat. 1254; Pub. L. 107–71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(6), Oct. 5, 2018, 132 Stat. 3632.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44906(a)(1) ..	49 App.:1357(k)(1)–(3). 49 App.:1357 (note).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(k)(1)–(3); added Nov. 16, 1990, Pub. L. 101–604, §105(a), 104 Stat. 3074. Nov. 16, 1990, Pub. L. 101–604, §105(c), 104 Stat. 3075.

The text of 49 App.:1357(k)(3) and the words “Not later than 180 days after the date of enactment of this Act” in section 105(c) of the Aviation Security Improvement Act of 1990 (Public Law 101–604, 104 Stat. 3075) are omitted as obsolete.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–254 substituted “Administrator of the Transportation Security Administration” for “Under Secretary of Transportation for Security” and, wherever appearing, “Administrator” for “Under Secretary”.

2001—Pub. L. 107–71 substituted “Under Secretary” for “Administrator” wherever appearing and “of Transportation for Security” for “of the Federal Aviation Administration”.

1996—Pub. L. 104–132 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator may approve a security program of a foreign air carrier under section 129.25 only if the Administrator decides the security program provides passengers of the foreign air carrier a level of protection similar to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall require a foreign air carrier to use procedures equivalent to those required of air carriers serving the same airport if the Administrator decides that the procedures are necessary to provide a level of protection similar to that provided passengers of the air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section.”

§ 44907. Security standards at foreign airports

(a) ASSESSMENT.—(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

- (i) served by an air carrier;
- (ii) from which a foreign air carrier serves the United States; or
- (iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the government of a foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures, including the screening and vetting of airport workers; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44938(b) of this title shall contain a summary of the assessments conducted under this subsection.

(b) CONSULTATION.—In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) NOTIFYING FOREIGN AUTHORITIES.—When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d) ACTIONS WHEN AIRPORTS NOT MAINTAINING AND CARRYING OUT EFFECTIVE SECURITY MEASURES.—(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

- (i) publish the identity of the airport in the Federal Register;

- (ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and
- (iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44908(a) of this title.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign country in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) **SUSPENSIONS.**—Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or a hearing, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) **CONDITION OF CARRIER AUTHORITY.**—This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1209; Pub. L. 115–254, div. K, title I, §1954, Oct. 5, 2018, 132 Stat. 3595.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44907(a)(1) ..	49 App.:1515(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1115(a), (b), (d)–(h); added Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, §551(a), 99 Stat. 222.
44907(a)(2) ..	49 App.:1515(a)(2), (3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1115(c); added Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, §551(a), 99 Stat. 222; Nov. 16, 1990, Pub. L. 101–604, §102(c)(2), 104 Stat. 3069.
44907(a)(3) ..	49 App.:1515(c).	
44907(b)	49 App.:1515(b).	
44907(c)	49 App.:1515(d).	
44907(d)(1) ..	49 App.:1515(e)(2).	
44907(d)(2) ..	49 App.:1515(e)(1).	
44907(d)(3) ..	49 App.:1515(e)(3).	
44907(d)(4) ..	49 App.:1515(f).	
44907(e)	49 App.:1515(g).	
44907(f)	49 App.:1515(h).	

In subsections (a)(2)(A) and (d)(2)(A)(i) and (3), the words “government of a foreign country” are substituted for “foreign government” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2)(B), the word “foreign” is added for clarity and consistency in this section.

In subsection (b)(2), the word “foreign” is added for consistency in the revised title and with other titles of the Code.

In subsection (c), the words “government of a foreign country” are substituted for “foreign government” for consistency in the revised title and with other titles of the Code.

In subsection (d)(1), before clause (A), the words “Subject to paragraph (1)” are omitted as surplus. In clause (C), the words “foreign country” are substituted for “foreign government” for clarity and consistency in the revised title and with other titles of the Code. The word “prescribe” is substituted for “impose” for consistency in the revised title and with other titles of the Code. The word “provide” is substituted for “engage in” for consistency in the revised title. In clause (D), the words “directly or indirectly” are omitted as surplus.

In subsection (d)(2)(A)(i), the words “identified” and “of such airport” are omitted as surplus.

In subsection (d)(2)(B), the words “issue a travel advisory required under section 44908(a) of this title” are substituted for “comply with the requirement of section 1515(a) [sic] of this Appendix that a travel advisory be issued” to eliminate unnecessary words.

In subsection (d)(4), the words “An action required . . . is no longer required” are substituted for “The sanctions required to be imposed with respect to an airport . . . may be lifted” to eliminate unnecessary words.

In subsection (e), before clause (1), the word “provide” is substituted for “engage in” for consistency in the revised title.

In subsection (f), the words “issued under authority vested in” are omitted as surplus.

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(2)(B). Pub. L. 115-254 inserted “, including the screening and vetting of airport workers” after “security measures”.

Statutory Notes and Related Subsidiaries

LAST POINT OF DEPARTURE AIRPORTS; SECURITY DIRECTIVES

Pub. L. 115-254, div. K, title I, §1953, Oct. 5, 2018, 132 Stat. 3594, provided that:

“(a) NOTICE AND CONSULTATION.—

“(1) IN GENERAL.—The Administrator [of the Transportation Security Administration] shall, to the maximum extent practicable, consult and notify the following stakeholders prior to making changes to security standards via security directives and emergency amendments for last points of departure:

“(A) Trade association representatives, for affected air carriers and airports, who hold the appropriate security clearances.

“(B) The head of each relevant Federal department or agency, including the Administrator of the Federal Aviation Administration.

“(2) TRANSMITTAL TO CONGRESS.—Not later than 3 days after the date that the Administrator issues a security directive or emergency amendment for a last point of departure, the Administrator shall transmit to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a description of the extent to which the Administrator consulted and notified the stakeholders under paragraph (1).

“(b) GAO REPORT.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Comptroller General of the United States shall review the effectiveness of the TSA [Transportation Security Administration] process to update, consolidate, or revoke security directives, emergency amendments, and other policies related to international aviation security at last point of departure airports and submit to the appropriate committees of Congress and the Administrator a report on the findings and recommendations.

“(2) CONTENTS.—In conducting the review under paragraph (1), the Comptroller General shall—

“(A) review current security directives, emergency amendments, and any other policies related to international aviation security at last point of departure airports;

“(B) review the extent of intra-agency and inter-agency coordination, stakeholder outreach, coordination, and feedback; and

“(C) review TSA’s process and criteria for, and implementation of, updating or revoking the policies described in subparagraph (A).

“(c) RESCREENING.—Subject to section 44901(d)(4)(c) [sic] of title 49, United States Code, upon discovery of

specific threat intelligence, the Administrator shall immediately direct TSA personnel to rescreen passengers and baggage arriving from an airport outside the United States and identify enhanced measures that should be implemented at that airport.

“(d) NOTIFICATION TO CONGRESS.—Not later than 1 day after the date that the Administrator determines that a foreign air carrier is in violation of part 1546 of title 49, Code of Federal Regulations, or any other applicable security requirement, the Administrator shall notify the appropriate committees of Congress.

“(e) DECISIONS NOT SUBJECT TO JUDICIAL REVIEW.—Notwithstanding any other provision of law, any decision of the Administrator under subsection (a)(1) relating to consultation or notification shall not be subject to judicial review.”

§ 44908. Travel advisory and suspension of foreign assistance

(a) TRAVEL ADVISORIES.—On being notified by the Administrator of the Transportation Security Administration that the Administrator of the Transportation Security Administration has decided under section 44907(d)(2)(A)(ii) of this title that a condition exists that threatens the security of passengers, aircraft, or crew traveling to or from a foreign airport that the Administrator of the Transportation Security Administration has decided under section 44907 of this title does not maintain and carry out effective security measures, the Secretary of State—

- (1) immediately shall issue a travel advisory for that airport; and
- (2) shall publicize the advisory widely.

(b) SUSPENDING ASSISTANCE.—The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to a country in which is located an airport with respect to which section 44907(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

(c) ACTIONS NO LONGER REQUIRED.—An action required under this section is no longer required only if the Administrator of the Transportation Security Administration has made a decision as provided under section 44907(d)(4) of this title. The Administrator shall notify Congress when the action is no longer required to be taken.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1211; Pub. L. 105-277, div. G, subd. B, title XXII, §2224(a), Oct. 21, 1998, 112 Stat. 2681-819; Pub. L. 115-254, div. K, title I, §1991(d)(7), Oct. 5, 2018, 132 Stat. 3632.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44908(a)	49 App.:1515a(a).	Aug. 8, 1985, Pub. L. 99-83, §552, 99 Stat. 226.
44908(b)	49 App.:1515a(b).	
44908(c)	49 App.:1515a(c), (d).	

In subsection (a)(3), the words “take the necessary steps to” are omitted as surplus.

In subsection (b), the words “all” and “the requirements of” are omitted as surplus.

Subsection (c) is substituted for 49 App.:1515a(c) and (d) to eliminate unnecessary words.