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TITLE 49--TRANSPORTATION

SUBTITLE VII--AVIATION PROGRAMS

PART A--AIR COMMERCE AND SAFETY

subpart iii--safety

CHAPTER 449--SECURITY

SUBCHAPTER II--ADMINISTRATION AND PERSONNEL

Sec. 44935. Employment standards and training

(a) Employment Standards.--The Under Secretary of Transportation for Security 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 Under Secretary shall review issues related to human performance in the aviation security system to maximize that performance. When the review is completed, the Under Secretary shall recommend guidelines and prescribe appropriate changes in existing procedures to improve that performance.

(c) Security Program Training, Standards, and Qualifications.--(1) The Under Secretary--

(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 Under Secretary 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 Under Secretary 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 Under Secretary of Transportation for Security shall establish a program for the hiring and training of security screening personnel.

(2) Hiring.--

(A) Qualifications.--Within 30 days after the date of enactment of the Aviation and Transportation Security Act, the Under Secretary shall establish qualification standards for individuals to be hired by the United States as security screening personnel. Notwithstanding any 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 1101(a)(22) \1\ of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

\1\ So in original. Probably should be section ``101(a)(22)''.

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

(iv) to meet such other qualifications as the Under Secretary 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 Under Secretary 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 Under Secretary, 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 Under Secretary shall develop a security screening personnel examination for use in determining the qualification of individuals seeking employment as security screening personnel. The Under Secretary 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 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 Under Secretary 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 Under Secretary.

(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 Under Secretary 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 Under Secretary 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 Under Secretary shall provide for the operational testing of such personnel.

(g) Training.--

(1) Use of other agencies.--The Under Secretary may enter into a memorandum of understanding 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.--Within 60 days after the date of enactment of the Aviation and Transportation Security Act, the Under Secretary 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 Under Secretary 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 Under Secretary.

(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 Under Secretary 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 Under Secretary 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) \2\ 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.

\2\ So in original. Two subsecs. (i) have been enacted.

(j) Uniforms.--The Under Secretary 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 Under Secretary.

(i) \2\ Accessibility of Computer-Based Training Facilities.--The Under Secretary 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.

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 1217; Pub. L. 106-528, Sec. 3, Nov. 22, 2000, 114 Stat. 2519; Pub. L. 107-71, title I, Secs. 101(f)(7), (9), 111(a), Nov. 19, 2001, 115 Stat. 603, 616; Pub. L. 107-296, title XVI, Sec. 1603, Nov. 25, 2002, 116 Stat. 2313.)

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, Sec. 316(h)-(j); added Nov. 16, 1990, Pub. L. 101-604, Sec. 105(a), 104 Stat. 3073.
44935(b)	49 App.:1357(i).	
44935(c)	49 App.:1357(c).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, Sec. 316(c); added Aug. 5, 1974, Pub. L. 93-366, Sec. 202, 88 Stat. 416; Oct. 31, 1992, Pub. L. 102-581, Sec. 202, 106 Stat. 4890.
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'' 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.

References in Text

The date of enactment of the Aviation and Transportation Security Act, referred to in subsecs. (e)(2)(A) and (g)(2), is the date of enactment of Pub. L. 107-71, which was approved Nov. 19, 2001.

Amendments

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, Sec. 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, Sec. 101(f)(7), substituted ``Under Secretary'' for ``Administrator'' in two places.

Subsec. (c). Pub. L. 107-71, Sec. 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, Sec. 101(f)(7), substituted ``Under Secretary'' for ``Administrator'' in introductory provisions.

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

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

Pub. L. 107-71, Sec. 101(f)(7), substituted ``Under Secretary'' for ``Administrator''.

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

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

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

Subsec. (j). Pub. L. 107-71, Sec. 111(a)(2), added subsec. (j).

2000--Subsecs. (e), (f). Pub. L. 106-528 added subsecs. (e) and (f).

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.

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.

Transition

Pub. L. 107-71, title I, Sec. 111(c), Nov. 19, 2001, 115 Stat. 620, provided that: ``The Under Secretary of Transportation for Security 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.''

Screener Personnel

Pub. L. 107-71, title I, Sec. 111(d), Nov. 19, 2001, 115 Stat. 620, provided that: ``Notwithstanding any other provision of law, the Under Secretary of Transportation for Security 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.''

Certification of Screening Companies

Pub. L. 104-264, title III, Sec. 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, Sec. 503, Oct. 9, 1996, 110 Stat. 3263, provided that:

``(a) Study.--The Administrator of the Federal Aviation Administration shall appoint a task force consisting of appropriate representatives of the aviation industry to conduct--

``(1) a study directed toward the development of--

``(A) standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of an applicant for employment as a pilot by an air carrier; and

``(B) standards and criteria for pilot training facilities to be licensed by the Administrator and which will assure that pilots trained at such facilities meet the preemployment screening standards and criteria described in subparagraph (A); and

``(2) a study to determine if the practice of some air carriers to require employees or prospective employees to pay for the training or experience that is needed to perform flight check duties for an air carrier is in the public interest.

``(b) Report.--Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a)(2)."

Study of Minimum Flight Time

Pub. L. 104-264, title V, Sec. 504, Oct. 9, 1996, 110 Stat. 3263, provided that:

``(a) Study.--The Administrator of the Federal Aviation Administration shall conduct a study to determine whether current minimum flight time requirements applicable to individuals seeking employment as a pilot with an air carrier are sufficient to ensure public safety.

``(b) Report.--Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the Administrator shall transmit to Congress a report on the results of the study."

Section Referred to in Other Sections

This section is referred to in sections 106, 114, 40109, 44915, 44936, 44937 of this title.