FEDERAL AVIATION ACT OF 1958

Public Law 85–726; 72 Stat. 737

49 U.S.C. App. 1301 et seq.

AN ACT To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Federal Aviation Act of 1958":

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1 No amendment was made to the table of sections when a new section 613 was added by section 9124 of Public Law 101-508 (104 Stat. 1388-370).

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1 Amendment made by §204(k) of Public Law 100-223, 101 Stat. 1321, was stated incorrectly.
2 Section 905 was repealed by section 230 of P.L. 102-345 without a corresponding amendment to the table of contents.
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TITLE I—GENERAL PROVISIONS

DEFINITIONS

Sec. 101. As used in this Act, unless the context otherwise requires—
(1) "Administrator" means the Administrator of the Federal Aviation Agency.
(2) "Aeronautics" means the science and art of flight.
(3) "Air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation: Provided, That the Board may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this Act to the extent and for such periods as may be in the public interest.
(4) "Air commerce" means interstate, overseas, or foreign air commerce or the transportation of mail by aircraft or any operation or navigation of aircraft within the limits of any Federal airway or any operation or navigation of aircraft which directly affects, or which may endanger safety in, interstate, overseas, or foreign air commerce.

¹ So in law; should be set in italics, not boldface.
² So in law.
(5) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

(6) "Aircraft engine" means an engine used, or intended to be used, for propulsion of an aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

(7) "Airmen" means any individual who engages, as the person in command and as pilot, co-pilot, or member of the crew, in the navigation of aircraft while under way; and (except to the extent the Administrator may otherwise provide) with respect to individuals employed outside the United States, any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air traffic controller on a foreign contract or tower operating facility.

(8) "Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for synchronizing weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

(9) "Airport" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) "Air transportation" means interstate, overseas, or foreign air transportation or the transportation of mail by aircraft.

(11) "All-cargo service" means the carriage by aircraft in interstate or overseas air transportation of only property or mail, or both.

(12) "Aircraft" means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

(13) "Board" means the Civil Aeronautics Board.

(14) "Charter air carrier" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in charter air transportation.

(15) "Charter air transportation" means charter trips, including inclusion in a tour charter trip, air transportation, rendered pursuant to authority conferred under this Act under regulations prescribed by the Board.

(16) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(17) "Civil aircraft" means any aircraft other than a public aircraft.

(18) "Civil aircraft of the United States" means any aircraft registered as provided in this Act.

(19) "Conditional sale" means (a) any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or happening of any contingency, or (b) any contract for the bailment or leasing of an aircraft, aircraft engine, propeller, appliance, or spare part, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract. The buyer, bailee, or lessee shall be deemed to be the person by whom any such contract is made or given.

(20) "Conveyance" means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property.

(21) "Federal airway" means a portion of the navigable airspace of the United States designated by the Administrator as a Federal airway.

(22) "Foreign air carrier" means any person, not a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation.

(23) "Interstate air commerce", "overseas air commerce", and "foreign air commerce", respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof);

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(24) "Interstate air transportation", "overseas air transportation", and "foreign air transportation", respectively, mean the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, respectively—
(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State, or between places in the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia; 
(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and 
(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(25) "Intrastate air carrier" means any citizen of the United States who undertakes, whether directly or indirectly, or by a lease or any other arrangement, to engage solely in intrastate air transportation.

(26) "Intrastate air transportation" means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.

(27) "Landing area" means any locality, either of land or water, including all the airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(28) "Mail" means United States mail and foreign-transit mail.

(29) "Navigable airspace" means airspace above the minimum altitude of flight prescribed by regulation issued under this Act, and shall include airspace needed to insure safety in take-off and landing of aircraft.

(30) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

(31) "Operation of aircraft" or "operate aircraft" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this Act.

(32) "Person" means any individual, firm, co-partnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(33) "Propeller" includes all parts, appurtenances, and accessories thereof.

(34) "Possessions of the United States" means (a) the Canal Zone, but nothing herein shall impair or affect the jurisdiction which has heretofore been, or may hereafter be, granted to the President in respect of air navigation in the Canal Zone; and (b) all other possessions of the United States. Where not otherwise distinctly expressed or manifestly incompatible with the intent there-of, references in this Act to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico. 

(35) "Predatory" means any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12).

(36) "Public aircraft" means any aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes. For purposes of this paragraph, "used exclusively in the service of" means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days.

(37) "Spare parts" means parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

(38) The term "special aircraft jurisdiction of the United States" includes—

(a) civil aircraft of the United States; 
(b) aircraft of the national defense forces of the United States; 
(c) any other aircraft within the United States; 
(d) any aircraft outside the United States—
(ii) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; 
(iii) having "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; or

(iii) in respect of which an offense as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, September 23, 1971) is committed, if the aircraft lands in the United States with an alleged offender still on board; and

(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States, while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.
(39) “State agency” means that department, agency, officer, or other entity of a State government which has been designated according to State law as—
(A) the recipient of any notice required under title IV of this Act to be given to a State agency; or
(B) the representative of the State in any matter about which the Board is required, under title IV, to consult, with or consider the views of a State agency.
(40) “Ticket agent” means any person, not an air carrier or a foreign air carrier and not a bona fide employee of an air carrier or foreign air carrier, who, as principal or agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for, such transportation.
(41) “United States” means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

DECLARATION OF POLICY: THE BOARD

FACTORS FOR INTERSTATE, OVERSEAS, AND FOREIGN AIR TRANSPORTATION

SEC. 102. (a) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:
(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of any new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.
(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.
(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers and foreign air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions for air carriers.
(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate

profits and to attract capital, taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other.
(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaptation of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.
(6) The encouragement of air service at major urban areas in the United States through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airports.
(7) The prevention of unfair, deceptive, predatory, or anti-competitive practices in air transportation, and the avoidance of—
(A) unreasonable industry concentration, excessive market domination, and monopoly power; and
(B) other conditions;
that would tend to allow one or more air carriers or foreign air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.
(8) The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities and for isolated areas in the United States, with direct Federal assistance where appropriate.
(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.
(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.
(11) The promotion, encouragement, and development of civil aeronautics as a viable, privately owned United States air transport industry.
(12) The strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for Unit-

ed States air carriers to maintain and increase their profitability, in foreign air transportation.

FACTORS FOR ALL-CARGO AIR SERVICE

(b) In addition to the declaration of policy set forth in subsection (a) of this section, the Board, in the exercise and performance of its powers and duties under this Act with respect to all-cargo air service shall consider the following, among other things, as being in the public interest:

(1) The encouragement and development of an expedited all-cargo air service system, provided by private enterprise, responsive to (A) the present and future needs of shippers, (B) the commerce of the United States, and (C) the national defense.

(2) The encouragement and development of an integrated transportation system relying upon competitive market forces to determine the extent, variety, quality and price of such services.

(3) The provision of services without unjust discriminations, undue preferences or advantages, unfair or deceptive practices, or predatory pricing.

(c) STRENGTHENING OF COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants to provide such transportation, the Secretary shall consider the strengthening of competition among air carriers operating in the United States in order to prevent undue concentration in the air carrier industry, in addition to considering the factors specified in subsections (a) and (b) of this section.

[49 U.S.C. App. 1302]

DECLARATION OF POLICY: THE ADMINISTRATOR

Sec. 103. In the exercise and performance of his powers and duties under this Act, the Administrator shall consider the following, among other things, as being in the public interest:

(1) The regulation of air commerce in such manner as to best promote its development and safety and fulfill the requirements of national defense.

(2) The promotion, encouragement, and development of civil aeronautics.

(3) The control of the use of the navigable airspace of the United States and the regulation of both civil and military operations in such airspace in the interest of the safety and efficiency of both.

(4) The consolidation of research and development with respect to air navigation facilities, as well as the installation and operation thereof.

(5) The development and operation of a common system of air traffic control and navigation for both military and civil aircraft.

(6) The provision of assistance to law enforcement agencies in the enforcement of laws relating to the regulation of controlled substances, to the extent consistent with aviation safety.

[49 U.S.C. App. 1303]

FEDERAL PREEMPTION

PREEMPTION

Sec. 105. (a)(1) Except as provided in paragraph (2) of this subsection, no State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier having authority under title IV of this Act to provide air transportation.

(2) Except with respect to air transportation (other than charter air transportation) provided pursuant to a certificate issued by the Board under section 401 of this Act, the provisions of paragraph (1) of this subsection shall not apply to any transportation by air of persons, property, or mail conducted wholly within the State of Alaska.

PROPRIETARY POWERS AND RIGHTS

(b)(1) Nothing in subsection (a) of this section shall be construed to limit the authority of any State or political subdivision thereof or any interstate agency or other political agency of two or more States as the owner or operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

(2) Any aircraft operated between points in the same State (other than the State of Hawaii) which in the course of such operation crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States, shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

EXISTING STATE AUTHORITY

(c) When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received
from the Board under title IV of this Act, until modified, sus-
pended, amended, or terminated as provided under such title.

DEFINITION

(d) For purposes of this section, the term "State" means any
State, the District of Columbia, the Commonwealth of Puerto Rico,
the Commonwealth of the Northern Mariana Islands, Guam, the
Virgin Islands, and any territory or possession of the United
States.
[49 U.S.C. App. 1305]

REPORT ON SUBSIDY COST-SHARING

Sec. 106. Not later than January 1, 1980, the Board and the Secretary of Transportation, shall, separately or jointly, submit a
comprehensive report to the Congress on the feasibility and appro-
priateness of devising formulas by which States and their political
subdivisions could share part of the cost associated with the
United States under sections 406 and 419 of this Act. Such report
shall include any recommendations of the Board and the Secretary
for the implementation of such cost-sharing formulas.
[49 U.S.C. App. 1306]

SAFETY STUDY

POLICY

Sec. 107. (a) The Congress intends that the implementa-
tion of the Airline Deregulation Act of 1978 result in no diminution of the
high standard of safety in air transportation attained in the United
States at the time of the enactment of such Act.

REPORT

(b) Not later than January 31, 1980, and through April 1,
1990, the Secretary of Transportation shall prepare and submit
to the Congress and the Board a comprehensive annual report on the
to which the implementation of the Airline Deregulation Act of
1978 has affected, during the preceding calendar year, or will af-
fect, in the succeeding calendar year, the level of air safety. Each
such report shall, at a minimum, contain an analysis of each of the
following:

(1) All relevant data on accidents and incidents occurring
during the calendar year covered by such report in air trans-
portation and on violations of safety regulations issued by the
Secretary of Transportation occurring during such calendar
year.

(2) Current and anticipated personnel requirements of the
Administrator with respect to enforcement of air safety regula-
tions.

(3) Effects on current levels of air safety of changes or pro-
posals for changes in air carrier operating practices and proce-
dures which occurred during the calendar year covered by such
report.

(4) The adequacy of air safety regulations taking into con-
sideration changes in air carrier operating practices and proce-
dures which occurred during the calendar year covered by such
report.

Based on such report, the Secretary shall take those steps nec-
essary to ensure that the high standard of safety in air transporta-
tion referred to in subsection (a) of this section is maintained in all
aspects of air transportation in the United States.1

RECOMMENDATIONS

(c) Not later than January 31, 1980, and through April 1, 1990,
the Secretary of Transportation shall submit to the Congress and the
Board recommendations with respect to the level of surveil-

1Section 317 of the Department of Transportation and Related Agencies Appropriations Act, 1980 (P.L. 101-202, 101 Stat. 1239-380-381; 49 U.S.C. 308 note) reads as follows:

Sec. 317. (a) SAFETY ENFORCEMENT PROGRAM PERFORMANCE.—The Secretary of Transpor-
tation shall on or before January 1 of each year transmit to the Congress a comprehensive re-
port on the performance of the Federal Aviation Administration’s prior fiscal year safety en-
forcement activities. The report shall include:
(1) a comparison of end-of-year staffing levels by inspector category (operations, mainte-
nance, air traffic) to staffing goals and a statement as to how staffing standards were applied
to make allocations between air carrier and general aviation operations, maintenance and

- schedules showing the number and percentage of inspectors who have received manda-
tory training by individual course, and the number of inspectors, by work force categories,
who have received all mandatory training.

- a description of the criteria used to set annual work programs, an explanation of how
those criteria differ from criteria used in the prior fiscal year and how the annual work pro-
grame ensure compliance with appropriate Federal regulations and safe operating practices;

- comparisions of safety inspections performed during the fiscal year to the annual work
programs disaggregated to the field locations and, for any field location completing less than
80 percent of its planned number of inspections, an explanation as to why annual work pro-
grame plans were not met;

- a statement of the adequacy of Federal Aviation Administration internal management
controls available to ensure that field managers are complying with Federal Aviation Ad-
ministration policies and procedures, including those regarding inspector priorities, district
office coordination, minimum inspection standards, and inspector follow-up.

- the status of the Federal Aviation Administration’s efforts to update inspector guid-
ance documents and Federal regulations to include technological, management, and struc-

tural changes taking place within the aviation industry, including a listing of the backing of
all proposed regulatory changes;

- a list of the specific operational measures of effectiveness—"best practices" standing

of the ultimate goal of accident prevention and ongoing program activities—that a
be used to evaluate progress in meeting program objectives, the quality of program deliver-

- the nature of emerging safety problems;

- a schedule showing the number of civil penalty cases closed during the two prior fiscal
years, including total initial assessments, total final assessments, total dollar amount col-
lected, range of dollar amount collected, average case processing time, and range of case
processing time;

- a schedule showing the number of enforcement actions taken, excluding civil pen-
alties, during the two prior fiscal years, including total number of violations cited, and the
number of closed violation cases closed by certificate suspension, certification revocations,

- a schedule showing the aviation industry’s safety record during the fiscal year for air

- the number of inspections performed where defici-
cencies were identified compared with inspections where no deficiencies were found and the
frequency of safety deficiencies per carrier as well as an analysis based on the data of the
status of air carrier and general aviation compliance with Federal Aviation Regula-

- Long-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY.—The Department
of Transportation shall undertake a long-range, multi-modal national transportation strategic
planning study. This study shall forecast long-term needs and tasks for developing and main-

- people and goods in the year 2010. The study shall include detailed analysis of transportation

- The study shall include analysis of metropolitan areas within six to nine metropolitan areas that have
diverse populations, development, and de-

- Congress or on before October 1, 1989.
Sec. 106  FEDERAL AVIATION ACT

Lance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Secretary of Transportation’s recommendations shall include proposals for any legislation needed to implement such recommendations.

REGULATIONS AND INSPECTION PROCEDURES

(d) Not later than July 1, 1979, the Secretary of Transportation shall complete a thorough review, and submit a report thereon to the appropriate authorizing committees of the Congress and to the Administrator, of the safety regulations and inspection procedures applicable to each class of air carriers subject to the provisions of title IV of this Act, in order to ensure that all classes of air carriers are providing the highest possible level of safe, reliable air transport to all the communities served by those air carriers. Based on such review, the Administrator shall promulgate such safety regulations and establish such inspection procedures as the Administrator deems necessary to maintain the highest standard of safe, reliable air transportation in the United States.

[49 U.S.C. App. 1307]

REPORT ON AIR CARRIER MARKETING OF TOURS

SEC. 108. Not later than May 1, 1979, the Board shall prepare and submit to the Congress a report on whether this Act and regulations of the Board should be amended to permit air carriers to sell tours directly to the public and to acquire control of persons authorized to sell tours to the public. The report shall evaluate the effects of the following on whether these carriers sell tours:

1. The traveling public.
2. The independent tour operator industry.
3. The travel agent industry.
4. The different classes of air carriers.

[49 U.S.C. App. 1308]

TITLE II—CIVIL AERONAUTICS BOARD; GENERAL POWERS OF BOARD

GENERAL POWERS AND DUTIES OF THE BOARD

GENERAL POWERS

SEC. 204. (a) The Board is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this Act, as shall deemed necessary to carry out the provisions of, and to exercise and perform its powers and duties under, this Act.

COOPERATION WITH STATE AERONAUTICAL AGENCIES

(b) The Board is empowered to confer with or to hold joint hearings with any State aeronautical agency, or other State agency...

1Title II (other than section 204) ceased to be in effect January 1, 1985. Section 1601(a)(3) of this Act.

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Sec. 302

EXCHANGE OF INFORMATION

(c) The Board is empowered to exchange with foreign governments, through appropriate agencies of the United States, information pertaining to aeronautics.

PUBLICATIONS

(d) Except as may be otherwise provided in this Act, the Board shall make a report in writing in all proceedings and investigations under this Act in which formal hearings have been held, and shall state in such report its conclusions together with its decision, order, or requirement in the premises. All such reports shall be entered for record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Board shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by it under this Act in such form and manner as may be best adapted for public information and use. Publications purporting to be published by the Board shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Board therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof.

[49 U.S.C. App. 1324]

TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR

CREATION OF AGENCY


(c) The principal office of the Agency shall be in or near the District of Columbia, but it may act and exercise all its powers at any other place. The Agency shall have an official seal which shall be judicially noticed.

[49 U.S.C. App. 1341]

ORGANIZATION OF AGENCY

EMERGENCY STATUS

(a) The Administrator shall develop, in consultation with the Department of Defense and other affected Government agencies, plans for the effective discharge of the responsibilities of the Agency in the event of war, and shall propose to Congress on or before January 1, 1966, legislation for such purpose: Provided, That in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functional or physical property) of the Agency prior to enactment of such proposed legislation. In connection with any such transfer, the President may provide for appropriate transfers of records, property, and personnel.


STUDY OF SPECIAL PERSONNEL PROBLEMS

(g) The Administrator shall make a study, in consultation with other affected Government agencies, of personnel problems inherent in the functions of the Agency, giving due consideration to the need for (1) special qualifications and training, (2) special provisions as to pay, retirement, and hours of service, and (3) special provisions to assure availability, responsiveness, and security status of essential personnel in fulfilling national defense requirements, and shall report the results thereof, and make recommendations for legislation thereon, to Congress on or before January 1, 1966.


SEC. 303. PROCUREMENT AUTHORITY.

(a) ACQUISITION AND DISPOSAL OF PROPERTY.—Subject to subsection (b), the Administrator, on behalf of the United States, is authorized, where appropriate—

(1) within the limits of available appropriations made by the Congress thereof, to acquire by purchase, condemnation, lease for a term not to exceed 20 years, or otherwise, personal property or services and real property or interests therein, including, in the case of air navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith;

(2) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interest therein; except that, other than for airport and airway property and technical equipment used for the special purposes of the Federal Aviation Administration, such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949; and

(3) to construct, improve, or renovate laboratories and other test facilities and to purchase or otherwise acquire real property required therefor.

(b) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—

(1) ACQUISITIONS BY CONDEMNATION.—Any acquisition by condemnation under subsection (a) may be made in accordance with the provision of the Act of August 1, 1889 (40 U.S.C. 257, 25 Stat. 357), the Act of February 28, 1931 (40 U.S.C. 258a–258e–1; 46 Stat. 1421), or any other applicable Act; except that, in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probable future use of the underlying land.

(2) ACQUISITIONS OF PUBLIC BUILDINGS.—The Administrator may, under subsection (a) construct or acquire by purchase, condemnation, or lease a public building, or interest in a public building (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612)) only under a delegation of authority from the Administrator of General Services.

(c) PROCUREMENT PROCEDURES.—In procuring personal property or services and real property and interests therein under subsection (a), the Administrator may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

(d) SOLE SOURCE APPROVAL BY ADMINISTRATOR.—For procurement by the Federal Aviation Administration, the Administrator shall be the senior procurement executive referred to in paragraph (3) of section 16 of Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purposes of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(A)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(A)(ii)).

(e) MULTYEAR SERVICE CONTRACTS:

(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, the Administrator may enter into contracts for periods of not more than 5 years for the following types of services (and items of supply related to such services) for which funds would otherwise be available for obligation only within the fiscal year for which appropriated—

(A) operation, maintenance, and support of facilities and installations;

(B) operation, maintenance, or modification of aircraft, vehicles, and other highly complex equipment;

(C) specialized training necessitating high quality instructor skills (for example, pilot and aircrew members; foreign language training); and

(D) base services (for example, ground maintenance, in-plane refueling; bus transportation; refuse collection and disposal).
(2) FINDINGS.—The Administrator may enter into a contract described in paragraph (1) only if the Administrator finds that—
(A) there will be a continuing requirement for the services consonant with current plans for the proposed contract period;
(B) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized workforce; and
(C) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(3) GUIDANCE PRINCIPLES.—In entering into contracts described in paragraph (1), the Administrator shall be guided by the following principles:
(A) The portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of such plant or equipment. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, the due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.
(B) Consideration shall be given to the desirability of obtaining an option to renew the contract for a reasonable period not to exceed 3 years, at prices not to include charges for plant, equipment, and other nonrecurring costs already amortized.
(C) Consideration shall be given to the desirability of reserving in the Federal Aviation Administration the right, upon payment of the unamortized portion of the cost of the plant or equipment, to take title thereto under appropriate circumstances.

(4) TERMINATION.—In the event funds are not made available for the continuation of a contract described in paragraph (1) into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—
(A) appropriations originally available for the performance of the contract concerned;
(B) appropriations currently available for procurement of the type of services concerned, and not otherwise obligated; or
(C) funds appropriated for those payments.

(f) MULTIPLE PROPERTY ACQUISITION CONTRACTS.—
(1) IN GENERAL.—Notwithstanding section 1341a(k)(1)(B) of title 31, United States Code, to the extent that funds are otherwise available for obligation, the Administrator may make multiyear contracts (other than contracts described in paragraph (6)) for the purchase of property, whenever the Administrator finds—

(A) that the use of such a contract will promote the safety or efficiency of the National Airspace System and will result in reduced total costs under the contract;
(B) that the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;
(C) that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request funding for the contract at the level required to avoid contract cancellation;
(D) that there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive; and
(E) that the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

(2) REGULATIONS.—
(A) GENERAL RULE.—The Administrator shall issue regulations for acquisition of property under this subsection to provide for the use of multiyear contracting as authorized by paragraph (1) in a manner that will allow the most efficient use of multiyear contracting.

(B) CANCELLATION PROVISIONS.—The regulations issued under this paragraph may provide for cancellation provisions in multiyear contracts described in paragraph (1) to the extent that such provisions are necessary and in the best interests of the United States. Such cancellation provisions may include consideration of both recurring and nonrecurring costs of the contractor associated with the production of the items to be delivered under the contract.

(C) BROADENING INDUSTRIAL BASE.—In order to broaden the aviation industrial base, the regulations issued under this paragraph shall provide that, to the extent practicable—
(i) multiyear contracting under paragraph (1) shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, vendors, or suppliers; and
(ii) upon accrual of any payment or other benefit under such a multiyear contract to any subcontract, vendor, or supplier company participating in such contract, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

(D) PROTECTION OF FEDERAL INTERESTS.—The regulations issued under this paragraph shall also provide that, to the extent practicable, the administration of this subsection, and of the regulations issued under this subsection, shall not be carried out in a manner to preclude or curtail the existing ability of the Federal Aviation Administration to—
(i) provide for competition in the production of items to be delivered under such a contract; or
(ii) provide for termination of a prime contract the performance of which is deficient with respect to cost, quality, or schedule.

(3) SPECIAL RULE FOR CONTRACTS WITH HIGH CANCELLATION CEILING.—Before any contract described in paragraph (1) that contains a clause providing for an excess of $100,000,000 may be awarded, the Administrator shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

(4) ADVANCE PROCUREMENT.—Contracts made under this subsection may be used for the advance procurement of components, parts, and materials necessary to the manufacture of equipment to be used in the National Airspace System, and contracts may be made under this subsection for such advance procurement, if feasible and practicable, in order to achieve economic lot purchases and more efficient production rates.

(5) TERMINATION.—In the event funds are not made available for the continuation of a contract made under this subsection into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

(A) appropriations originally available for the performance of the contract concerned;

(B) appropriations currently available for procurement of the type of property concerned, and not otherwise obligated; or

(C) funds appropriated for those payments.

(6) LIMITATION ON APPLICABILITY.—This subsection does not apply to contracts for the construction, alteration, or major repair or improvements to real property or contracts for the purchase of property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

(7) MULTIYEAR CONTRACT DEFINED.—For the purposes of this subsection, a multiyear contract is a contract for the purchase of property or services for more than 1 fiscal year but not more than 5 fiscal years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

(8) PRICE OPTIONS.—The Administrator may incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.

(g) LIMITED SOURCES OF PROCUREMENT.—The Administrator shall have the same authority as the Administrator would have under section 2304(c)(1) of title 10, United States Code, if the Federal Aviation Administration were an agency listed under section 2300(a) of title 10, United States Code.

(h) CONTRACT TOWER PROGRAM.—The Administrator may enter into a contract, on a sole source basis, with a State or political subdivision thereof for the purpose of permitting such State or political subdivision to operate an airport traffic control tower classified as a level I visual flight rules tower by the Administrator if the Administrator determines that the State or political subdivision has the capability to comply with the requirements of this subsection. Any such contract shall require that the State or political subdivision comply with all applicable safety regulations in its operation of the facility and with applicable competition requirements in the subcontracting of any work to be performed under the contract.

AUTHORITY OF PRESIDENT TO TRANSFER CERTAIN FUNCTIONS

SEC. 304. The President may transfer to the Administrator any functions (including powers, duties, activities, facilities, and parts of functions) of the executive departments or agencies of the Government or of any officer or organizational entity thereof which relate primarily to selecting, developing, testing, evaluating, establishing, operating and maintaining systems, procedures, facilities, or devices for safe and efficient air navigation and air traffic control. In connection with any such transfer, the President may provide for the appropriate transfers of records, property, and for necessary civilian and military personnel to be made available from the other office, department, or other agency from which the transfer is made.

[49 U.S.C. App. 1345]

FOSTERING OF AIR COMMERCE

SEC. 305. The Administrator is empowered and directed to encourage and foster the development of civil aeronautics and air commerce in the United States and abroad.

[49 U.S.C. App. 1346]

NATIONAL DEFENSE AND CIVIL NEEDS

SEC. 306. In exercising the authority granted in, and discharging the duties imposed by, this Act, the Administrator shall give full consideration to the requirements of national defense, and commercial and general aviation, and to the public right of freedom of transit through the navigable airspace.

[49 U.S.C. App. 1347]

AIRSPACE CONTROL AND FACILITIES

USE OF AIRSPACE

SEC. 307. (a) The Administrator is authorized and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace. He may
modify or revoke such assignment when required in the public interest.

AIR NAVIGATION FACILITIES

(b) The Administrator is authorized, within the limits of available appropriations made by the Congress, (1) to acquire, establish, and improve air-navigation facilities wherever necessary; (2) to operate and maintain such air-navigation facilities; (3) to arrange for publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation utilizing the facilities and assistance of existing agencies of the Government so far as practicable; and (4) to provide necessary facilities and personnel for the regulation and protection of air traffic. The Secretary may, subject to such regulations, supervision, and review as he may prescribe, from time to time make such provision as he shall deem appropriate authorizing the performance by a Federal department or agency, with the consent of the department or agency, of any function under this subsection. In carrying out clause (3), the Administrator shall update and arrange for publication of clearly defined routes for navigating through a complex terminal airspace area, and to and from an airport located within such an area, where the Administrator determines that publication of such routes would promote safety in air navigation. Such routes shall be for the optional use of pilots operating under visual flight rules and shall be developed in consultation with pilots and other users of affected airports.

AIR TRAFFIC RULES

(c) The Administrator is further authorized and directed to prescribe air traffic rules and regulations governing the flight of aircraft, for the navigation, protection, and identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of navigable airspace, including rules as to safe altitudes of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT

(d) In the exercise of the rulemaking authority under subsections (a) and (c) of this section, the Administrator shall be subject to the provisions of the Administrative Procedure Act, not-withstanding any exception relating to military or naval functions in section 4 thereof. 2

EXEMPTIONS

(e) The Administrator from time to time may grant exemptions from the requirements of any rule or regulation prescribed under this title if he finds that such action would be in the public interest.

1 Subchapter D of chapter 5 and chapter 7 of title 5, United States Code. Public Law 89-554, section 553, 80 Stat. 647. Section 533 of title 5, United States Code.

2 Exception for Military Emergencies

(f) When it is essential to the defense of the United States because of a military emergency or urgent military necessity, and when appropriate military authority so determines, and when prior notice thereof is given to the Administrator, such military authority may authorize deviation by military aircraft of the national defense forces of the United States from air traffic rules issued pursuant to this title. Such prior notice shall be given to the Administrator at the earliest time practicable and, to the extent time and circumstances permit, every reasonable effort shall be made to consult fully with the Administrator and to arrange in advance for the required deviation from the rules on a mutually acceptable basis.

[49 U.S.C. App. 1348]

EXPENDITURE OF FEDERAL FUNDS FOR CERTAIN AIRPORTS, ETC.

AIRPORTS FOR OTHER THAN MILITARY PURPOSES Sec. 308. (a) No Federal funds, other than those expended under this Act, shall be expended, other than for military purposes (whether or not in cooperation with State or other local governmental agencies), for the acquisition, establishment, construction, alteration, repair, maintenance, or operation of any landing area, or for the acquisition, establishment, construction, maintenance, or operation of air navigation facilities thereon, except upon written recommendation and certification by the Administrator that such landing area or facility is reasonably necessary for use in air commerce or in the interests of national defense. Any interested person may apply to the Administrator, under regulations prescribed by him, for such recommendation and certification with respect to any landing area or air navigation facility proposed to be established, constructed, altered, repaired, maintained, or operated by, or in the interests of, such person. There shall be no exclusive right for the use of any landing area or air navigation facility upon which Federal funds have been expended. For purposes of the preceding sentence, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

LOCATION OF AIRPORTS, LANDING AREAS, AND MISSILE AND ROCKET SITES

(b) In order to assure conformity to plans and policies for allocations of airspace by the Administrator under section 307 of this Act, no military airport or landing area, or missile or rocket site shall be acquired, established, or constructed, or any runway layout substantially altered, unless reasonable prior notice thereof is given the Administrator so that he may advise with the appropriate committees of the Congress and other interested agencies as to the effects of such acquisition, establishment, construction, or al-
teration on the use of airspace by aircraft. In case of a disagreement between the Administrator and the Department of Defense or the National Aeronautics and Space Administration the matter may be appealed to the President for final determination.

[49 U.S.C. App. 1349]

**OTHER AIRPORTS**

**SEC. 309.** In order to assure conformity to plans and policies for, and allocations of, airspace by the Administrator under section 307 of this Act, no airport having an area of control designated by the Administrator as a takeoff or landing area of Federal funds shall be established, or constructed, or any runway layout substantially altered unless reasonable prior notice thereof is given the Administrator, pursuant to regulations prescribed by him, so that he may advise as to the effects of such construction on the use of airspace by aircraft.

[49 U.S.C. App. 1350]

**METEOROLOGICAL SERVICE**

**SEC. 310.** The Administrator is empowered and directed to make recommendations to the Secretary of Commerce for providing meteorological service necessary for the safe and efficient movement of aircraft in air commerce. In providing meteorological services, the Secretary of Commerce shall cooperate with the Administrator and give full consideration to such recommendations.

[49 U.S.C. App. 1351]

**Sec. 311.** [Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 329]

**DEVELOPMENT PLANNING GENERAL**

**Sec. 312.** (a) The Administrator is directed to make long range plans for and formulate policy with respect to the orderly development and use of the navigable airspace, and the orderly development and location of landing areas, Federal airports, radar installations and all other aids and facilities for air navigation, as will best meet the needs of, and serve the interest of civil aeronautics and national defense, except for those needs of military agencies which are peculiar to war and primarily of military concern.

(b) The Administrator is empowered to undertake or supervise such developmental work and service testing as tends to the creation of improved aircraft, aircraft engines, propellers, and appliances. The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety, to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resistance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for inflight aircraft fires, to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft, and to develop advanced aircraft fuels with low flammability and technologies for compliance of aircraft fuels for the purpose of minimizing post-crash fire hazards. For such purpose, the Administrator is empowered to make purchases (including exchange) by negotiation, or otherwise, of experimental aircraft, aircraft engines, aircraft materials, propellers, and appliances, which seem to offer special advantages to aeronautics.

**RESEARCH AND DEVELOPMENT**

(c) The Administrator shall develop, modify, test, and evaluate systems, procedures, facilities, and devices, as well as define the performance characteristics thereof, to meet the needs for safe and efficient navigation and traffic control of all civil and military aviation except for those needs of military agencies which are peculiar to air warfare and primarily of military concern, and select such systems, procedures, facilities, and devices as will best serve such need and will promote maximum coordination of air traffic control and air defense systems. The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop dynamic simulation models of the air traffic control system and airport design and operating procedures which will provide analytical technology for predicting airport and air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in airport and air traffic control operations programs. The Administrator shall undertake or supervise research programs concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system. Contracts may be entered into for this purpose without regard to section 3643 of the Revised Statutes, as amended (31 U.S.C. 529). When there is any substantial question as to whether a matter is of primary concern to the military, the Administrator is authorized and directed to determine whether he or the appropriate military agency shall have responsibility. Technical information concerning any research and development projects of the military agencies which have potential application to the needs of, or possible conflict with, the common system shall be furnished to the Administrator.
RESEARCH PLAN AND REPORTS

d(1) The Administrator shall prepare, review, revise, publish, and transmit a national aviation research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than the date of the submission to Congress of the President's budget for fiscal year 1990, and for each fiscal year thereafter. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth:

(A) for the first 2 years of the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research project, including a description of the scope and content of each major contract, grant, and interagency agreement;

(B) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project for such years and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements;

(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given the highest priority; and

(D) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

(2) Subject to section 316(d)(2) of this Act and the regulations prescribed to carry out such section, the Administrator shall report annually, beginning with the date of transmission of the first aviation research plan as required by paragraph (1), to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted together with each plan transmitted required under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.

CIVIL AEROMEDICAL RESEARCH

(e) The Civil Aeromedical Institute established by section 106(j) of title 49, United States Code, is authorized—

(1) to conduct civil aeromedical research, including, but not limited to, research related to—

(A) protection and survival of aircraft occupants;

(B) medical accident investigation and airman medical certification;

(C) toxicology and the effects of drugs on human performance;

(D) the impact of disease and disability on human performance;

(E) vision and its relationship to human performance and equipment design;

(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other persons involved in the operation and maintenance of aircraft and air traffic control equipment; and

(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

(2) to make comments to the Administrator on human factors aspects of proposed air safety rules;

(3) to make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

(4) to advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between such Administration and the National Aeronautics and Space Administration, other Government agencies, industry, and foreign governments; and

(5) to provide medical consultation services to the Administrator with respect to medical certification of airmen.

RESEARCH ADVISORY COMMITTEE

(f)(1) Not later than 180 days after the date of the enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration. In addition, the committee shall review the research and training to be carried out by the regional centers of air transportation excellence established under subsection (h).

(2) The advisory committee shall be composed of not more than 30 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of their education, training, or experience. The Administrator in ap-
pointing the members of the committee shall ensure that the research centers of air transportation excellence, universities, corporations, associations, consumers, and other Government agencies are represented.

(4) The chairman of the advisory committee shall be designated by the Administrator.

(5) Members of the advisory committee shall serve without pay; except that the Administrator may allow any member, while attending meetings of the advisory committee or a subordinate committee, travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

(6) The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this section and section 316.

(7) Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and supplies as the Administrator determines are necessary for the advisory committee to carry out its functions. The [Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

(9)(A) Not more than one-tenth of 1 percent of the funds made available to carry out research under this section and section 316 for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

(B) No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection.

(g) RESEARCH GRANT PROGRAM.—

(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations to conduct aviation research into areas deemed by the Administrator to be required for the long-term growth of civil aviation.

(2) APPLICATIONS.—A university, college, or nonprofit organization interested in receiving a grant under this subsection may submit to the Administrator an application for such grant. Such application shall be in such form and contain such information as the Administrator may require.

(3) SELECTION.—The Administrator shall establish a solicitation, review, and evaluation process that ensures (A) the funding under this subsection of proposals having adequate merit and relevancy to the mission of the Federal Aviation Administration, (B) an equitable geographical distribution of grant funds under this subsection, and (C) the inclusion of historically black colleges and universities and other minority institutions for funding consideration under this subsection.

(4) RECORDS.—Each person awarded a grant under this subsection shall maintain such records as the Administrator may require as being necessary to facilitate an effective audit and evaluation of the use of grant funds.

(5) REPORTS.—The Administrator shall make an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the research grant program conducted under this subsection.

(h) CATASTROPHIC FAILURE PREVENTION RESEARCH GRANT PROGRAM.—

(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations (A) to conduct aviation research relating to development of technologies and methods to assess the risk and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft, and (B) to establish centers of excellence for continuing such research.

(2) SELECTION AND EVALUATION PROCESSES.—The Administrator shall establish a solicitation, application, review, and evaluation process that ensures (A) the funding under this subsection of proposals having adequate merit and relevancy to the research described in paragraph (1).

(i) AVIATION RESEARCH AND CENTERS OF EXCELLENCE.—

(1) GENERAL AUTHORITY.—The Administrator may make grants to one or more colleges or universities to establish and operate several regional centers of air transportation excellence, whose locations shall be geographically equitable.

(2) RESPONSIBILITIES.—The responsibilities of each regional center of air transportation excellence established under this subsection shall include, but not be limited to, the conduct of research concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system, and the interpretation, publication, and dissemination of the results of such research. In conducting such research, each center may contract with nonprofit research organizations and other appropriate persons.

(3) APPLICATION.—Any college or university interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

(A) The extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.

(B) The demonstrated research and extension resources available to the applicant for carrying out this subsection.

(C) The capability of the applicant to provide leadership in making national and regional contributions to the

[49 U.S.C. App. 1353]
solution of both long-range and immediate air transportation problems.

(D) The extent to which the applicant has an established air transportation program.

(E) The demonstrated ability of the applicant to disseminate results of air transportation research and education programs through a statewide or regionwide continuing education program.

(F) The projects which the applicant proposes to carry out under the grant.

(5) MAINTENANCE OF EFFORT.—No grant may be made under this subsection in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional center of air transportation excellence and related research activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this subsection.

(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operating the regional center of air transportation excellence and related research activities carried out by the grant recipient.

(7) ALLOCATION OF FUNDS.—Funds made available to carry out this subsection shall be allocated by the Administrator in a geographically equitable manner.

OTHER POWERS AND DUTIES OF ADMINISTRATOR

GENERAL

SEC. 313. (a) The Administrator is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedures, pursuant to and consistent with the provisions of this Act, as he shall deem necessary to carry out the provisions of, and to exercise and perform his powers and duties under, this Act.

PUBLICATIONS

(b) Except as may be otherwise provided in this Act, the Administrator shall make a report in writing on all proceedings and investigations under this Act in which formal hearings have been held, and shall state in such report his conclusions together with his decisions, order, or requirement in the premises. All such reports shall be entered of record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Administrator shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by him under this Act in such form and manner as may be best adapted for public information and use. Publications purporting to be published by the Administrator shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Administrator therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof.

POWER TO CONDUCT HEARINGS AND INVESTIGATIONS

(c) In the conduct of any public hearings or investigations authorized by this Act, the Airport and Airway Improvement Act of 1982, the Federal Airport Act, or the Airport and Airway Development Act of 1970, the Administrator shall have the same powers to take evidence, issue subpoenas, take depositions, and compel testimony as are vested in members of the Board and its duly designated examiners by section 1004 of this Act. Actions of the Administrator in such cases shall be governed by the procedures specified in section 1004 and be enforced in the manner provided therein.

TRAINING SCHOOLS

(d) The Administrator is empowered to conduct a school or schools for the purpose of training employees of the Agency in those subjects necessary for the proper performance of all authorized functions of the Agency. He may also authorize attendance at courses given in such school or schools of other governmental personnel, and personnel of foreign governments, or personnel of the aeronautics industry: Provided, That in the event the attendance of such persons shall increase the cost of operation of such school or schools, the Administrator may require the payment or transfer of sufficient funds or other appropriate consideration to offset the additional costs. In providing any training to employees of the Agency or of other agencies of the Federal Government, the Administrator shall be subject to the provisions of the Government Employees Training Act (72 Stat. 327). Funds received by the Administrator hereunder may be credited (1) to appropriations current at the time the expenditures are to be or have been paid, (2) to appropriations current at the time such funds are received, or (3) in part as provided under clause (1) and in part as provided under clause (2).

(e) INDEMNIFICATION.—The Administrator is empowered to indemnify any officer or employee of the Federal Aviation Administration against any claim or judgment against such person if such claim or judgment arises out of an act or acts committed, as determined by the Administrator, within the scope of such person's official duties. The Administrator may issue such regulations as may be necessary to implement this subsection.

(f) PROCESSING FEES.—

(1) ESTABLISHMENT AND COLLECTION.—The Administrator may establish and collect such fees as may be necessary to cover the costs associated with issuance of certificates of registration of aircraft, issuance of airman certificates to pilots, and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.
DELEGATION OF POWERS AND DUTIES TO PRIVATE PERSONS

DELEGATION BY ADMINISTRATOR

SEC. 314. (a) In exercising the powers and duties vested in him by this Act, the Administrator may, subject to such regulations, supervision, review as he may prescribe, delegate to any properly qualified private person, or to any employee or employees under the supervision of such person, any work, business, or function respecting (1) the examination, inspection, and testing necessary to the issuance of certificates under title VI of this Act, and (2) the issuance of such certificates in accordance with standards established by him. The Administrator may establish the maximum fees which such private persons may charge for their services and may rescind any delegation made by him pursuant to this subsection at any time and for any reason which he deems appropriate.

APPLICATION FOR RECONSIDERATION

(b) Any person affected by any action taken by any private person exercising delegated authority under this section may apply for reconsideration of such action by the Administrator. The Administrator upon his own initiative, with respect to the authority granted under subsection (a), may reconsider the action of any private person either before or after it has become effective. If, upon reconsideration by the Administrator, it shall appear that the action in question is in any respect unwarranted, the Administrator shall reverse, change, or modify the same accordingly; other-

wise such action shall be affirmed: Provided, That nothing in this subsection shall be construed as modifying, amending, or repealing any provisions of the Administrative Procedure Act.1

1[49 U.S.C. App. 1354]

SCREENING OF PASSENGERS

PROCEDURES AND FACILITIES

SEC. 315. (a) The Administrator2 shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures or facilities employed or operated by employees or agents of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. One year after the date of enactment of this section or after the effective date of such regulations, whichever is later, the Administrator may alter or amend such regulations, requiring a continuation of such screening only to the extent deemed necessary to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation. The Administrator shall submit annual reports to the Congress concerning the effectiveness of screening procedures under this subsection and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least 30 days in advance of their effective date, unless he determines that an emergency exists which requires that such regulations or amendments take effect in less than 30 days and notifies the Congress of his determination. Each annual report submitted by the Administrator pursuant to the preceding sentence shall include the information described in section 1115(c) of this Act.

(b) TRANSPORTATION SECURITY—

(1) ANNUAL REPORT.—Not later than December 31 of calendar year 1991 and of each calendar year thereafter, the Secretary shall submit to Congress an annual report concerning transportation security, together with such recommendations as the Secretary considers appropriate. Such report shall be prepared in conjunction with the annual report of the Administrator under subsection (a) and shall not duplicate the information required by subsection (a) or section 1115(c) of this Act. Such annual report may, as necessary, be submitted in 2 parts with 1 part being classified in nature and 1 part being declassified.

(2) CONTENTS OF REPORT.—The annual report required by this subsection shall include—

(A) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of such report;

1Subchapter II of chapter 5, and chapter 7, of title 5, United States Code. Public Law 89-554, section 7(b), 80 Stat. 631.
2Section 1 of title 1, sections 310 et seq. and 316 et seq. of this title were enacted after the Department of Transportation Act. Reference to "Administrator" should be read as Administrator of the Federal Aviation Administration. See Introductory Note to this compilation.
(B) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;
(C) recommendations for research, engineering, and development activities relating to transportation security, except research, engineering, and development activities relating to aviation security to the extent such activities are covered by the research plan required by section 312(d) of the Federal Aviation Act of 1958;
(D) legislative and regulatory recommendations, if appropriate;
(E) funding and staffing requirements of the Director of Intelligence and Security;
(F) an assessment of funding and staffing requirements, and attainment of existing staffing goals, for carrying out security functions of the Federal Aviation Administration;
(G) identification and evaluation of cooperative efforts with other Federal agencies;
(H) an evaluation of cooperation with foreign transportation and security authorities;
(I) the status of implementation of the recommendations of the President’s Commission of Aviation Security and Terrorism and the reasons for any delays in implementation of such recommendations; and
(J) an evaluation of deployment of explosive detection devices.

EXEMPTION AUTHORITY

(c) The Administrator may exempt from the provisions of this section, in whole or in part, air transportation operations, other than those scheduled passenger operations performed by air carriers engaging in interstate, overseas, or foreign air transportation under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of this Act or under a foreign air carrier permit issued by the Board under section 402 of this Act.

[AIR TRANSPORTATION SECURITY RULES AND REGULATIONS

SEC. 316. (a)(1) The Administrator of the Federal Aviation Administration shall prescribe such reasonable rules and regulations requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary to protect persons and property aboard aircraft operating in air transportation or interstate air transportation against acts of criminal violence and aircraft piracy.

(2) In prescribing and amending rules and regulations under paragraph (1) of this subsection, the Administrator shall—

(A) consult with the Secretary of Transportation, the Attorney General, and such other Federal, State, and local agencies as he may deem appropriate;
(B) consider whether any proposed rule or regulation is consistent with protection of passengers in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy and the public interest in the promotion of air transportation and intrastate air transportation;
(C) to the maximum extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in air transportation and intrastate air transportation to assure their safety and to assure that they will receive courteous and efficient treatment, by air carriers, their agents and employees, and by Federal, State, and local law enforcement personnel engaged in carrying out any air transportation security program established under this section; and
(D) consider the extent to which any proposed rule or regulation will contribute to carrying out the purposes of this section.

PERSONNEL

(b) Regulations prescribed under subsection (a) of this section shall require operators of airports regularly serving air carriers certified by the Civil Aeronautics Board to establish air transportation security programs providing a law enforcement presence and capability at such airports adequate to insure the safety of persons traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy. Such regulations shall authorize such airport operators to utilize the services of qualified State, local, and private law enforcement personnel whose services are made available by their employers. In any case in which the Administrator determines, after receipt of notification from an airport operator in such form as the Administrator may prescribe, that qualified State, local, and private law enforcement personnel are not available in sufficient numbers to carry out the provisions of subsection (a) of this section, the Administrator may, by order, authorize such airport operator to utilize, on a reimbursable basis, the services of—

(1) personnel employed by any other Federal department or agency, with the consent of the head of such department or agency; and
(2) personnel employed directly by the Administrator; at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary to supplement such State, local, and private law enforcement personnel. In making the determination referred to in the preceding sentence the Administrator shall take into consideration—

(A) the number of passengers enplaned at such airport;
(B) the extent of anticipated risk of criminal violence and aircraft piracy at such airport or to the air carrier aircraft operations at such airport; and
(C) the availability at such airport of qualified State or local law enforcement personnel.
(c)(1) The Administrator may provide training for personnel employed by him to carry out any air transportation security program established under this section and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized in carrying out any such air transportation security program. The Administrator shall prescribe uniform standards with respect to training provided personnel whose services are utilized to enforce any such air transportation security program, including State, local, and private law enforcement personnel, and uniform standards with respect to minimum qualifications for personnel eligible to receive such training.

(2) REIMBURSEMENT FOR CERTAIN EXPENSES.—At the discretion of the Administrator, reimbursement may be made for travel, transportation, and subsistence expenses for the security training of non-Federal domestic and foreign security personnel whose services will contribute significantly to carrying out civil aviation security programs under this section. To the extent practicable, air travel reimbursed under this paragraph shall be conducted on United States air carriers.

RESEARCH AND DEVELOPMENT; CONFIDENTIAL INFORMATION

(d)(1) The Administrator shall conduct such research (including behavioral research) and development as he may deem appropriate to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy. (2) Notwithstanding section 552 of title 5, United States Code, relating to freedom of information, the Administrator shall prescribe such regulations as he may deem necessary to protect the security or research and development activities under this title if, in the opinion of the Administrator, the disclosure of such information—

(A) would constitute an unwarranted invasion of personal privacy (including, but not limited to, information contained in any personnel, medical, or similar file);
(B) would reveal trade secrets or privileged or confidential commercial or financial information obtained from any person; or
(C) would be detrimental to the safety of persons traveling in air transportation.

Nothing in this subsection shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

(3) PROGRAM TO ACCELERATE RESEARCH.—

(A) IN GENERAL.—The Administrator shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation.

(4) REVIEW OF THREATS.—Not later than 180 days after the date of the enactment of this paragraph, the Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

(i) the explosive materials which present the most significant threat to civil aircraft;
(ii) the minimum amounts, configurations, and types of explosive material which would reasonably be expected to cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;
(iii) the minimum amounts, configurations, and types of explosive material which can cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;
(iv) the amounts, configurations, and types of explosive material which can reliably be detected by existing, or reasonably anticipated, near-term explosive detection technologies;
(v) the feasibility of employing various methods to minimize damage caused by explosive materials which cannot be reliably detected by existing, or reasonably anticipated, near-term explosive detection technologies;
(vi) the ability to screen such different entities as passengers, carry-on baggage, checked baggage, mail, and cargo; and
(vii) the technologies which might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the methods by which such technologies can be effectively countered.

(C) USE OF RESULTS.—The results of such review shall be used by the Administrator in developing the focus and priorities of the program established under this paragraph.

(D) DESIGN AND IMPLEMENTATION.—In designing and implementing the program established under this paragraph, the Administrator shall—

(i) consult and coordinate with other Federal agencies conducting similar research;
(ii) identify Federal agencies which would benefit from such research; and
(iii) seek cost-sharing agreements with such Federal agencies.

(4) PURPOSE.—It shall be the purpose of the program established under paragraph (3) to develop and have in place not later than 36 months after the date of the enactment of this paragraph such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

(5) HUMAN FACTORS.—The program established under paragraph (3) shall include research and development of both technological improvements and ways to enhance human performance.
(6) GRANTS AND COOPERATIVE AGREEMENTS.—Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants, to colleges, universities, and other appropriate research institutions and facilities with demonstrated ability to conduct research described in paragraph (3). Such grants shall be in such amounts, and subject to such terms and conditions, as the Administrator may prescribe. The Administrator may also enter into such cooperative agreements with such governmental entities as the Administrator considers appropriate.

(7) REVIEW.—In the administration of this section, the Administrator shall ensure the annual reports of the Secretary of Transportation submitted to Congress on transportation security and intelligence.

(8) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, to provide advice for the purpose of reviewing, commenting on, and advising the Administrator on the progress of, and any necessary actions to be taken, the Research Program established under paragraph (3), and to the programs established under paragraph (3), including the need for long-range research programs to detect and defend against terrorism weapons.

(9) AUTHORIZATION OF APPROPRIATIONS.—The grants and cooperative agreements authorized by this section shall be appropriated from the Airport and Airway Trust Fund, subject to the requirements of section 47 of the Federal Aviation Act of 1958, and section 304 of the Federal Aviation Act of 1959.

OVERALL FEDERAL RESPONSIBILITY

Except as otherwise specifically provided by law, no Federal department or agency shall be assigned or transferred to any other Federal department or agency.

Notwithstanding any other provision of law, the Administrator shall have exclusive authority for the direction of any law enforcement activity for the purpose of ensuring compliance with all applicable regulations and standards for the operation of an aircraft, and shall have exclusive responsibility for the direction of any law enforcement activity affecting the safety of persons aboard aircraft in flight involved in the commission of an offense under section 902(1) or 902(a) of this title.

(A) IN GENERAL.—In order to ensure the security of aircraft and their passengers, crew, and cargo, the Administrator shall issue regulations to require individuals employed in, and individuals applying for, positions described in paragraph (B) to be subject to such employment requirements.

(i) AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—

(1) EMPLOYMENT INVESTIGATIONS.—(A) IN GENERAL.—In order to ensure the security of aircraft and their passengers, crew, and cargo, the Administrator shall issue regulations to require individuals employed in, and individuals applying for, positions described in subparagraph (B) to be subject to such employment requirements.
investigations, including criminal history record check, as the Administrator determines necessary to ensure air transportation security.

(B) INDIVIDUALS SUBJECT TO EMPLOYMENT INVESTIGA-
TIONS.—An individual shall be subject to an employment investigation under subparagraph (A) if such individual is employed in, or is applying for, a position in which such individual has unescorted access, or may authorize others to have unescorted access, to air carrier or foreign air car-
rier aircraft, or to secured areas (designated by the Admin-
istrator) of United States airports serving air carriers or
foreign air carriers.

(C) REQUIREMENTS OF AIR CARRIERS AND AIRPORT OPE-
RATORS.—Any air carrier, foreign air carrier, or airport
operator who employs an individual in a position described
in subparagraph (B), or authorizes or contracts for the
services of such individual, shall take such actions as may
be necessary to ensure that any employment investigation
required by the Administrator under subparagraph (A) is
performed.

(2) CRIMINAL HISTORY RECORDS CHECK—
(A) IN GENERAL.—If, as part of an employment inves-
tigation under paragraph (1)(A), the Administrator re-
quires an identification and criminal history record check
of an individual in a position described in paragraph (1)(B)
to be conducted by the Attorney General, the Admin-
istrator (after consultation with the Attorney General) shall
designate persons to obtain and transmit fingerprints to
the Attorney General. The costs of any such check shall be
paid by the employer of such individual. The Attorney
General may for the purposes of this subsection make
available the results of any such check to persons des-
ignated by the Administrator, after consultation with the
Attorney General.

(B) REGULATIONS.—For purposes of administering this
subsection, the Administrator shall prescribe regulations to—

(i) implement procedures for taking fingerprints;

and

(ii) establish requirements for use of information
received from the Attorney General under this sub-
section in order to limit the dissemination of such in-
formation and ensure that such information is used
solely for the purposes of this subsection.

(C) CORRECTION OF CHECK INFORMATION.—An individ-
ual who, as part of an employment investigation under
paragraph (1)(A), is subject to an identification and crimi-
nal history records check shall be provided a copy of any
record received from the Attorney General and shall have
the right to complete and correct the information contained
in such check before any final employment decision is
made on account of such check.

(3) EMPLOYMENT RESTRICTIONS—

(A) IN GENERAL.—Except as provided in subparagraph
(B), an air carrier, foreign air carrier, or airport operator
shall not employ, or authorize or contract for the services
of, any individual in a position described in paragraph
(1)(B), if—

(i) such individual has not been subject to an
employment investigation required under paragraph
(1)(A); or

(ii) the results of such investigation establish that
such individual in the 10-year period ending on the
date of such investigation has been convicted in any
jurisdiction of a crime set forth in section 902 (b), (c),
(h), (i), (j), (k), (l), (m), (n), (q), or (r); a crime set forth
in section 32 of title 18, United States Code; murder;
assault with intent to murder; espionage; sedition;
treason; rape; kidnapping; unlawful possession, sale,
distribution, or manufacture of an explosive or weap-
on; extortion; armed robbery; distribution of, or intent
to distribute, a controlled substance; or conspiracy to
commit any of the aforementioned criminal acts.

The Administrator may specify other factors which the Ad-
ministrator determines to be sufficient to make an individ-
ual ineligible for employment in a position described in
paragraph (1)(B).

(B) EXCEPTION.—It shall not be a violation of subpara-
graph (A) for an air carrier, foreign air carrier, or airport
operator to employ, or authorize or contract for employ-
ment of, an individual in a position described in paragraph
(1)(B) who has not been subject to an employment inves-
tigation required by paragraph (1)(A), if the employment of
such individual is carried out pursuant to a plan approved
by the Administrator which provides alternate security ar-
rangements.

(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing
in this subsection shall be construed as requiring investiga-
tions or record checks where such investigations or record checks are
prohibited by applicable laws of a foreign government.

(5) FEES AND CHARGES.—The Administrator and the Attor-
ney General shall establish reasonable fees and charges to
cover expenses incurred in carrying out this subsection. The
amount of fees collected under this paragraph shall be credited
to the accounts in the Treasury from which such expenses were
incurred and shall be available to the Administrator and the
Attorney General for paying expenses for which such fees are
collected.

(h) EMPLOYMENT STANDARDS.—Not later than 270 days after
the date of the enactment of this subsection, the Administrator
shall prescribe standards for the hiring, continued employment,
and contracting of air carrier and, as appropriate, airport security
personnel. Such standards shall include—

(1) minimum training requirements for new employees;

(2) retraining requirements;

(3) minimum staffing levels;

(4) minimum language skills; and
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(5) minimum education levels for employees, as appropriate.
(ii) HUMAN FACTORS.—The Administrator, in coordination with air carriers, airport operators, and other interested persons shall review issues relating to human performance in the aviation security system with the goal of maximizing such performance. Upon completion of the review, the Administrator shall recommend guidelines and prepare appropriate changes to existing procedures to improve such performance.

(j) TRAINING OF AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—Not later than 180 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the education and training of—

(1) ground security coordinators;
(2) security supervisory personnel; and
(3) air security officers.

Such standards shall include initial training, retraining, and continuing education requirements and methods by which the performance of ground security coordinators and security supervisory personnel shall be measured annually.

(k) FOREIGN AIR CARRIER SECURITY PROGRAMS.—

(1) CONTINUATION OF EXISTING APPROVAL REQUIREMENT.—The Administrator shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that foreign air carriers must adopt and use a security program approved by the Administrator.

(2) LEVEL OF PROTECTION.—The Administrator may approve a security program of a foreign air carrier under the requirement referred to in paragraph (1) only if the Administrator finds that the security program provides passengers of the foreign air carrier with a similar level of protection as such passengers would receive under the security programs of air carriers serving the same airports. The Administrator shall require foreign air carriers to employ procedures equivalent to those required of air carriers serving the same airport if the Administrator determines that such procedures are necessary to afford a similar level of protection as is afforded passengers of the air carriers serving the same airport.

(3) REVIEW OF EXISTING PROGRAMS.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall take such action as may be necessary to ensure that a security program of a foreign air carrier approved by the Administrator before such date of enactment meets the requirement of paragraph (2).

(4) ANNUAL REPORT.—The Administrator shall submit to Congress as part of the annual report required by section 315(a) an assessment of the steps being taken, and the progress being made, in ensuring that foreign air carrier security programs for airports outside the United States—

(A) at which the Administrator determines that a Foreign Security Liaison Officer is necessary for air transportation security, and

(B) for which extraordinary security measures are in place,

are in compliance with this subsection.

[49 U.S.C. App. 1357]

AIRPORT SECURITY IN ALASKA

Sec. 317. The Administrator is authorized to exempt from the provisions of sections 315 and 316 of this Act those airports in Alaska which receive service only from air carriers operating under certificates granted by the Civil Aeronautics Board under section 401 of this Act, which operate aircraft having a maximum certificated gross takeoff weight of less than 12,500 pounds, and which do not enplane any passenger, or any property intended to be carried in the aircraft cabin, which passenger or property is moving in air transportation and will not be subject to screening in accordance with such section 315 at an airport in Alaska before such passenger or property is enplaned for any point outside Alaska.

[49 U.S.C. App. 1358]

Sec. 318. ASSISTANT ADMINISTRATOR OF CIVIL AVIATION SECURITY.

(a) ESTABLISHMENT OF POSITION.—There is established the position of Assistant Administrator for Civil Aviation Security.

(b) AUTHORITY OF ADMINISTRATOR.—The Assistant Administrator shall report directly to the Administrator and shall be subject to the Administrator's direction and authority.

(c) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall include—

(1) day-to-day management of and operational guidance to Federal Aviation Administration field security resources, including Federal Security Managers;

(2) enforcement of security-related requirements;

(3) identification of research and development requirements of security-related activities;

(4) inspections of security systems;

(5) reporting to the Director of Intelligence and Security such information as may be necessary to permit the Director to fulfill assigned responsibilities;

(6) assessment of threats to civil aviation; and

(7) such other functions as the Administrator considers necessary and appropriate.

(d) MEASURES TO STRENGTHEN AIR TRANSPORTATION SECURITY.—The Assistant Administrator shall review and, as necessary, develop measures to strengthen air transportation security, including—

(1) measures to strengthen controls over checked baggage in air transportation, such as measures to ensure baggage reconciliation and inspection of items in baggage of passengers which could potentially contain explosive devices;

(2) measures to strengthen control over individuals with access to aircraft;

(3) measures to improve testing of security systems;

(4) measures to ensure the use of best available x-ray equipment for air transportation security purposes; and

(5) measures to strengthen controls over checked baggage in air transportation, such as measures to ensure baggage reconciliation and inspection of items in baggage of passengers which could potentially contain explosive devices;