

air carriers against loss or damage arising out of any risk from the operation of an aircraft, in the manner and to the extent provided in chapter 443 of title 49, United States Code, until January 15, 2014, if he determines that such insurance or reinsurance cannot be obtained on reasonable terms from any company authorized to conduct an insurance business in a State of the United States.

3. Delegate to the Secretary of Transportation the authority, vested in me by 49 U.S.C. 44306(c), to extend this approval and determination through December 31, 2014, or until any date prior to December 31, 2014, provided that the Congress further extends the date contained in section 44310 and further provided that he not use this delegation to extend this determination and approval beyond the dates authorized under any such provision of law with an ending effective date prior to December 31, 2014.

You are directed to bring this determination immediately to the attention of all air carriers, as defined in 49 U.S.C. 40102(a)(2), and to arrange for its publication in the Federal Register.

BARACK OBAMA.

Prior Presidential documents related to provision of insurance to U.S.-flag commercial air service were contained in the following:

Memorandum of President of the United States, Sept. 27, 2012, 77 F.R. 60035.

Memorandum of President of the United States, Sept. 28, 2011, 76 F.R. 61247.

Memorandum of President of the United States, Sept. 29, 2010, 75 F.R. 61033.

Memorandum of President of the United States, Aug. 21, 2009, 74 F.R. 43617.

Memorandum of President of the United States, Dec. 23, 2008, 73 F.R. 79589.

Memorandum of President of the United States, Dec. 27, 2007, 73 F.R. 1813.

Memorandum of President of the United States, Dec. 21, 2006, 71 F.R. 77243.

Memorandum of President of the United States, Dec. 22, 2005, 70 F.R. 76669.

Determination of President of the United States, No. 2005-15, Dec. 21, 2004, 69 F.R. 77607.

Determination of President of the United States, No. 2004-13, Dec. 11, 2003, 69 F.R. 5237.

Determination of President of the United States, No. 01-29, Sept. 23, 2001, 66 F.R. 49075.

§ 44302a. Temporary insurance

(a) IN GENERAL.—The Secretary may provide insurance or reinsurance under this section to or for an air carrier for 1 coverage period not to exceed 90 days. Except as otherwise provided in this section, such insurance or reinsurance shall be subject to the requirements of this chapter.

(b) RESTRICTIONS.—A policy for insurance or reinsurance issued under this section—

(1) may not be issued unless the insurance carrier of the air carrier has unilaterally terminated the air carrier's war risk liability coverage pursuant to—

- (A) notice under the policy;
- (B) an endorsement to the policy; or
- (C) an automatic termination provision in the policy or any endorsement thereto; and

(2) may cover hull, comprehensive, and third party liability risks.

(c) PREMIUM.—A premium for insurance or reinsurance provided under this section shall be calculated based on a prorated amount equivalent to the premium that was in effect under the terminated insurance carrier policy.

(d) APPROVAL.—A policy for insurance or reinsurance provided under this section—

(1) shall be exempt from the requirements of section 44302(c); and

(2) may provide coverage to the extent allowed under section 44303, as determined by the Secretary, notwithstanding any determination by the President in subsection (a)(1) of such section.

(Added Pub. L. 117-328, div. Q, §103(a), Dec. 29, 2022, 136 Stat. 5252.)

§ 44303. Coverage

(a) IN GENERAL.—The Secretary of Transportation may provide insurance and reinsurance, or reimburse insurance costs, as authorized under sections 44302 and 44302a of this title for the following:

(1) an American aircraft or foreign-flag aircraft engaged in aircraft operations the President decides are necessary in the interest of air commerce or national security or to carry out the foreign policy of the United States Government.

(2) property transported or to be transported on aircraft referred to in clause (1) of this section, including—

(A) shipments by express or registered mail;

(B) property owned by citizens or residents of the United States;

(C) property—

(i) imported to, or exported from, the United States; and

(ii) bought or sold by a citizen or resident of the United States under a contract putting the risk of loss or obligation to provide insurance against risk of loss on the citizen or resident; and

(D) property transported between—

(i) a place in a State or the District of Columbia and a place in a territory or possession of the United States;

(ii) a place in a territory or possession of the United States and a place in another territory or possession of the United States; or

(iii) 2 places in the same territory or possession of the United States.

(3) the personal effects and baggage of officers and members of the crew of an aircraft referred to in clause (1) of this section and of other individuals employed or transported on that aircraft.

(4) officers and members of the crew of an aircraft referred to in clause (1) of this section and other individuals employed or transported on that aircraft against loss of life, injury, or detention.

(5) statutory or contractual obligations or other liabilities, customarily covered by insurance, of an aircraft referred to in clause (1) of this section or of the owner or operator of that aircraft.

(6) loss or damage of an aircraft manufacturer resulting from operation of an aircraft by an air carrier and involving war or terrorism.

(b) AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—For acts of terrorism committed on or to an air

carrier during the period beginning on September 22, 2001, and ending on December 11, 2014, the Secretary may certify that the air carrier was a victim of an act of terrorism and in the Secretary's judgment, based on the Secretary's analysis and conclusions regarding the facts and circumstances of each case, shall not be responsible for losses suffered by third parties (as referred to in section 205.5(b)(1) of title 14, Code of Federal Regulations) that exceed \$100,000,000, in the aggregate, for all claims by such parties arising out of such act. If the Secretary so certifies, the air carrier shall not be liable for an amount that exceeds \$100,000,000, in the aggregate, for all claims by such parties arising out of such act, and the Government shall be responsible for any liability above such amount. No punitive damages may be awarded against an air carrier (or the Government taking responsibility for an air carrier under this subsection) under a cause of action arising out of such act. The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1169; Pub. L. 107–42, title II, §201(b)(1), Sept. 22, 2001, 115 Stat. 235; Pub. L. 107–296, title XII, §1201, Nov. 25, 2002, 116 Stat. 2286; Pub. L. 108–11, title IV, §4001(b), Apr. 16, 2003, 117 Stat. 606; Pub. L. 108–176, title I, §106(a)(3), (b), Dec. 12, 2003, 117 Stat. 2499; Pub. L. 108–447, div. H, title I, §106(b), Dec. 8, 2004, 118 Stat. 3204; Pub. L. 109–115, div. A, title I, §108(b), Nov. 30, 2005, 119 Stat. 2402; Pub. L. 110–161, div. K, title I, §114(b), Dec. 26, 2007, 121 Stat. 2381; Pub. L. 110–253, §3(c)(7), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §5(d), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(c), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(d), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(c), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–117, div. A, title I, §114(b), Dec. 16, 2009, 123 Stat. 3043; Pub. L. 111–153, §5(c), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(c), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(c), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(c), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(d), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(c), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(c), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(c), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(c), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(c), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(d), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(d), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title VII, §702, Feb. 14, 2012, 126 Stat. 118; Pub. L. 113–46, div. A, §153, Oct. 17, 2013, 127 Stat. 565; Pub. L. 113–76, div. L, title I, §119E(b), Jan. 17, 2014, 128 Stat. 582; Pub. L. 113–164, §148(b), Sept. 19, 2014, 128 Stat. 1874; Pub. L. 113–235, div. L, §102(b), Dec. 16, 2014, 128 Stat. 2767; Pub. L. 117–328, div. Q, §103(b)(1), Dec. 29, 2022, 136 Stat. 5252.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44303	49 App.1533.	Aug. 23, 1958, Pub. L. 85–726, §1303, 72 Stat. 801; re-stated Nov. 9, 1977, Pub. L. 95–163, §3, 91 Stat. 1279.

In this section, before clause (1), the words “persons, property, or interest” are omitted as unnecessary. In clause (2), the word “property” is substituted for “Cargoes” and “air cargoes” for consistency in the revised title. In clause (2)(B) and (C), the words “its territories, or possessions” are omitted as unnecessary because of the definition of “United States” in section 40102(a) of the revised title. In clause (2)(C)(ii), the word “contract” is substituted for “contracts of sale or purchase”, and the words “putting . . . on” are substituted for “is assumed by or falls upon”, to eliminate unnecessary words. In clause (2)(D), the word “place” is substituted for “point” for consistency in the revised title. In subclause (i), the words “a State or the District of Columbia” are substituted for “the United States” for clarity and consistency because the definition of “United States” in section 40102(a) of the revised title is too broad for the context of the clause. The definition in section 40102(a) includes territories and possession and would therefore overlap with subclauses (ii) and (iii). In subclause (iii), the words “2 places in the same territory or possession of the United States” are substituted for “any point in any such territory or possession and any other point in the same territory or possession” for clarity. In clauses (3) and (4), the word “individuals” is substituted for “persons” as being more appropriate. The words “captains” and “pilots” are omitted as being included in “officers and members of the crew”.

Editorial Notes

CODIFICATION

The text of section 201(b)(2) of Pub. L. 107–42, which was transferred and redesignated so as to appear as subsec. (b) of this section and amended by Pub. L. 107–296, was based on Pub. L. 107–42, title II, §201(b)(2), Sept. 22, 2001, 115 Stat. 235, formerly included in a note set out under section 40101 of this title.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–328 substituted “sections 44302 and 44302a” for “section 44302” in introductory provisions.

2014—Subsec. (b). Pub. L. 113–235 substituted “December 11, 2014” for “the date specified in section 106(3) of the Continuing Appropriations Resolution, 2015”.

Pub. L. 113–164 substituted “the date specified in section 106(3) of the Continuing Appropriations Resolution, 2015” for “September 30, 2014”.

Pub. L. 113–76 substituted “September 30, 2014” for “the date specified in section 106(3) of the Continuing Appropriations Act, 2014”.

2013—Subsec. (b). Pub. L. 113–46 substituted “the date specified in section 106(3) of the Continuing Appropriations Act, 2014” for “December 31, 2013”.

2012—Subsec. (b). Pub. L. 112–95 substituted “ending on December 31, 2013, the Secretary may certify” for “ending on May 17, 2012, the Secretary may certify”.

Pub. L. 112–91 substituted “May 17, 2012,” for “April 30, 2012,”.

2011—Subsec. (b). Pub. L. 112–30 substituted “April 30, 2012,” for “December 31, 2011,”.

Pub. L. 112–27 substituted “December 31, 2011,” for “October 31, 2011,”.

Pub. L. 112–21 substituted “October 31, 2011,” for “September 30, 2011,”.

Pub. L. 112–16 substituted “September 30, 2011,” for “August 31, 2011,”.

Pub. L. 112–7 substituted “August 31, 2011,” for “June 30, 2011,”.

2010—Subsec. (b). Pub. L. 111–329 substituted “June 30, 2011,” for “March 31, 2011,”.

Pub. L. 111–249 substituted “March 31, 2011,” for “December 31, 2010,”.

Pub. L. 111–216 substituted “December 31, 2010,” for “October 31, 2010,”.

Pub. L. 111–197 substituted “October 31, 2010,” for “September 30, 2010,”.

Pub. L. 111-161 substituted “September 30, 2010,” for “July 31, 2010.”

Pub. L. 111-153 substituted “July 31, 2010,” for “June 30, 2010.”

2009—Subsec. (b). Pub. L. 111-117, which directed the substitution of “December 31, 2010,” for “December 31, 2009,” could not be executed due to the intervening amendment by Pub. L. 111-69. See below.

Pub. L. 111-116 substituted “June 30, 2010,” for “March 31, 2010.”

Pub. L. 111-69 substituted “March 31, 2010,” for “December 31, 2009.”

Pub. L. 111-12 substituted “December 31, 2009,” for “May 31, 2009.”

2008—Subsec. (b). Pub. L. 110-330 substituted “May 31, 2009,” for “March 31, 2009.”

Pub. L. 110-253 substituted “March 31, 2009” for “December 31, 2008”.

2007—Subsec. (b). Pub. L. 110-161 substituted “2008,” for “2006.”

2005—Subsec. (b). Pub. L. 109-115 substituted “2006” for “2005”.

2004—Subsec. (b). Pub. L. 108-447 substituted “2005” for “2004”.

2003—Subsec. (a). Pub. L. 108-176, §106(a)(3)(A), substituted “IN GENERAL” for “IN GENERAL” in heading.

Subsec. (a)(6). Pub. L. 108-176, §106(a)(3)(B), added par. (6).

Subsec. (b). Pub. L. 108-176, §106(b), inserted at end “The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.”

Pub. L. 108-11 substituted “2004” for “2003”.

2002—Pub. L. 107-296 designated existing provisions as subsec. (a), inserted heading, transferred and redesignated the text of section 201(b)(2) of Pub. L. 107-42 so as to appear as subsec. (b), in heading substituted “Air Carrier Liability for Third Party Claims Arising Out of Acts of Terrorism” for “Discretion of the Secretary”, and in text substituted “the period beginning on September 22, 2001, and ending on December 31, 2003, the Secretary” for “the 180-day period following the date of enactment of this Act, the Secretary of Transportation” and “this subsection” for “this paragraph”. See Codification note above.

2001—Pub. L. 107-42, §201(b)(1)(A), inserted “, or reimburse insurance costs, as” after “insurance and reinsurance” in introductory provisions.

Par. (1). Pub. L. 107-42, §201(b)(1)(B), inserted “in the interest of air commerce or national security or” before “to carry out the foreign policy”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-27 effective July 23, 2011, see section 5(j) of Pub. L. 112-27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112-21 effective July 1, 2011, see section 5(j) of Pub. L. 112-21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112-16 effective June 1, 2011, see section 5(j) of Pub. L. 112-16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112-7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112-7, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111-329, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111-249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111-216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-197 effective July 4, 2010, see section 5(j) of Pub. L. 111-197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-161 effective May 1, 2010, see section 5(j) of Pub. L. 111-161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111-153, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111-116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111-12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111-12, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110-330, set out as a note under section 40117 of this title.

Amendment by Pub. L. 110-253 effective July 1, 2008, see section 3(d) of Pub. L. 110-253, set out as a note under section 9502 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

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

EXTENSION OF LIMITATION OF AIR CARRIER LIABILITY

Pub. L. 109-289, div. B, title II, §21002(b), as added by Pub. L. 110-5, §2, Feb. 15, 2007, 121 Stat. 48, provided that subsec. (b) of this section would be applied by substituting “September 30, 2007” for “December 31, 2006”.

§ 44304. Reinsurance

To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may reinsure any part of the insurance provided by an insurance carrier. The Secretary may reinsure with, transfer to, or transfer back to, any insurance carrier any insurance or reinsurance provided by the Secretary under this chapter.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1169; Pub. L. 107-42, title II, §201(c), Sept. 22, 2001, 115 Stat. 235; Pub. L. 112-95, title VII, §703, Feb. 14, 2012, 126 Stat. 118.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44304(a)	49 App.:1535(a).	Aug. 23, 1958, Pub. L. 85-726, §1305, 72 Stat. 802; Nov. 9, 1977, Pub. L. 95-163, §4(a), 91 Stat. 1279.
44304(b)	49 App.:1535(b).	

In subsection (a), the words “may reinsure any part of the insurance provided by an insurance carrier” are substituted for “may reinsure, in whole or in part, any company authorized to do an insurance business” for clarity and consistency with source provisions restated in this subchapter and the definition of “insurance carrier” in section 44301 of the revised title. The words “transfer to, or transfer back to” are substituted for “cede or retrocede to” for clarity.

In subsection (b), the word “same” is omitted as being included in “similar”. The words “on account of the cost of” are omitted as surplus. The word “pro-