

Statutory Notes and Related Subsidiaries

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.

CREW MEMBER SELF-DEFENSE TRAINING

Pub. L. 115-254, div. K, title I, §1960, Oct. 5, 2018, 132 Stat. 3600, provided that: “The Administrator [of the Transportation Security Administration], in consultation with the Administrator of the Federal Aviation Administration, shall continue to carry out and encourage increased participation by air carrier employees in the voluntary self-defense training program under section 44918(b) of title 49, United States Code.”

§ 44919. PreCheck Program

(a) **IN GENERAL.**—The Administrator of the Transportation Security Administration shall continue to administer the PreCheck Program in accordance with section 109(a)(3) of the Aviation and Transportation Security Act (49 U.S.C. 114 note).

(b) **EXPANSION.**—Not later than 180 days after the date of enactment of the TSA Modernization Act, the Administrator shall enter into an agreement, using other transaction authority under section 114(m) of this title, with at least 2 private sector entities to increase the methods and capabilities available for the public to enroll in the PreCheck Program.

(c) **MINIMUM CAPABILITY REQUIREMENTS.**—At least 1 agreement under subsection (b) shall include the following capabilities:

(1) Start-to-finish secure online or mobile enrollment capability.

(2) Vetting of an applicant by means other than biometrics, such as a risk assessment, if—

(A) such means—

(i) are evaluated and certified by the Secretary of Homeland Security;

(ii) meet the definition of a qualified anti-terrorism technology under section 865 of the Homeland Security Act of 2002 (6 U.S.C. 444); and

(iii) are determined by the Administrator to provide a risk assessment that is as effective as a fingerprint-based criminal history records check conducted through the Federal Bureau of Investigation with respect to identifying individuals who are not qualified to participate in the PreCheck Program due to disqualifying criminal history; and

(B) with regard to private sector risk assessments, the Secretary has certified that reasonable procedures are in place with regard to the accuracy, relevancy, and proper utilization of information employed in such risk assessments.

(d) **ADDITIONAL CAPABILITY REQUIREMENTS.**—At least 1 agreement under subsection (b) shall include the following capabilities:

(1) Start-to-finish secure online or mobile enrollment capability.

(2) Vetting of an applicant by means of biometrics if the collection—

(A) is comparable with the appropriate and applicable standards developed by the National Institute of Standards and Technology;

(B) protects privacy and data security, including that any personally identifiable information is collected, retained, used, and shared in a manner consistent with section 552a of title 5, United States Code (commonly known as “Privacy Act of 1974”), and with agency regulations;

(C) is evaluated and certified by the Secretary of Homeland Security; and

(D) is determined by the Administrator to provide a risk assessment that is as effective as a fingerprint-based criminal history records check conducted through the Federal Bureau of Investigation with respect to identifying individuals who are not qualified to participate in the PreCheck Program due to disqualifying criminal history.

(e) **TARGET ENROLLMENT.**—Subject to subsections (b), (c), and (d), the Administrator shall take actions to expand the total number of individuals enrolled in the PreCheck Program as follows:

(1) 7,000,000 passengers before October 1, 2019.

(2) 10,000,000 passengers before October 1, 2020.

(3) 15,000,000 passengers before October 1, 2021.

(f) **MARKETING OF PRECHECK PROGRAM.**—Not later than 90 days after the date of enactment of the TSA Modernization Act, the Administrator shall—

(1) enter into at least 2 agreements, using other transaction authority under section 114(m) of this title, to market the PreCheck Program; and

(2) implement a long-term strategy for partnering with the private sector to encourage enrollment in such program.

(g) **IDENTITY VERIFICATION ENHANCEMENT.**—The Administrator shall—

(1) coordinate with the heads of appropriate components of the Department to leverage Department-held data and technologies to verify the identity and citizenship of individuals enrolling in the PreCheck Program;

(2) partner with the private sector to use biometrics and authentication standards, such as relevant standards developed by the National Institute of Standards and Technology, to facilitate enrollment in the program; and

(3) consider leveraging the existing resources and abilities of airports to collect fingerprints for use in background checks to expedite identity verification.

(h) **PRECHECK PROGRAM LANES OPERATION.**—The Administrator shall—

(1) ensure that PreCheck Program screening lanes are open and available during peak and high-volume travel times at appropriate airports to individuals enrolled in the PreCheck Program; and

(2) make every practicable effort to provide expedited screening at standard screening lanes during times when PreCheck Program screening lanes are closed to individuals enrolled in the program in order to maintain operational efficiency.

(i) **ELIGIBILITY OF MEMBERS OF THE ARMED FORCES FOR EXPEDITED SECURITY SCREENING.**—

(1) **IN GENERAL.**—Subject to paragraph (3), an individual specified in paragraph (2) is eligible for expedited security screening under the PreCheck Program.

(2) **INDIVIDUALS SPECIFIED.**—An individual specified in this subsection is any of the following:

(A) A member of the Armed Forces, including a member of a reserve component or the National Guard.

(B) A cadet or midshipman of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the United States Coast Guard Academy.

(C) A family member of an individual specified in subparagraph (A) or (B) who is younger than 12 years old and accompanying the individual.

(3) **IMPLEMENTATION.**—The eligibility of an individual specified in paragraph (2) for expedited security screening under the PreCheck Program is subject to such policies and procedures as the Administrator may prescribe to carry out this subsection, in consultation with the Secretary of Defense and, with respect to the United States Coast Guard, the Commandant of the United States Coast Guard.

(j) **VETTING FOR PRECHECK PROGRAM PARTICIPANTS.**—The Administrator shall initiate an assessment to identify any security vulnerabilities in the vetting process for the PreCheck Program, including determining whether subjecting PreCheck Program participants to recurrent fingerprint-based criminal history records checks, in addition to recurrent checks against the terrorist watchlist, could be done in a cost-effective manner to strengthen the security of the PreCheck Program.

(k) **ASSURANCE OF SEPARATE PROGRAM.**—In carrying out this section, the Administrator shall ensure that the additional private sector application capabilities under subsections (b), (c), and (d) are undertaken in addition to any other related TSA program, initiative, or procurement, including the Universal Enrollment Services program.

(l) **Expenditure of Funds.**—Any Federal funds expended by the Administrator to expand PreCheck Program enrollment shall be expended in a manner that includes the requirements of this section.

(Added Pub. L. 107-71, title I, §108(a), Nov. 19, 2001, 115 Stat. 611; amended Pub. L. 115-254, div. K, title I, §1937(a), Oct. 5, 2018, 132 Stat. 3576.)

Editorial Notes

REFERENCES IN TEXT

Section 109 of the Aviation and Transportation Security Act, referred to in subsec. (a), is section 109 of Pub.

L. 107-71, which is set out as a note under section 114 of this title.

The date of enactment of the TSA Modernization Act, referred to in subsecs. (b) and (f), is the date of enactment of title I of div. K of Pub. L. 115-254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Pub. L. 115-254 amended section generally. Prior to amendment, section related to establishment of pilot program under which the screening of passengers and property was to be conducted by a qualified private screening company.

Statutory Notes and Related Subsidiaries

ENROLLMENT REDRESS WITH RESPECT TO DEPARTMENT OF HOMELAND SECURITY TRUSTED TRAVELER PROGRAMS

Pub. L. 117-81, div. F, title LXIV, §6417, Dec. 27, 2021, 135 Stat. 2415, provided that: “Notwithstanding any other provision of law, the Secretary of Homeland Security shall, with respect to an individual whose enrollment in a trusted traveler program was revoked in error extend by an amount of time equal to the period of revocation the period of active enrollment in such a program upon reenrollment in such a program by such an individual.”

PRECHECK EXPEDITED SCREENING

Pub. L. 115-254, div. K, title I, §1938, Oct. 5, 2018, 132 Stat. 3579, provided that:

“(a) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall ensure that only a traveler who is a member of a trusted traveler program specified in subsection (b) is permitted to use a TSA PreCheck security screening lane at a passenger screening checkpoint.

“(b) **TRUSTED TRAVELER PROGRAMS SPECIFIED.**—A trusted traveler program specified in this subsection is any of the following:

“(1) The PreCheck Program under section 44919 of title 49, United States Code.

“(2) Any other program implemented by the TSA under section 109(a)(3) of the Aviation and Transportation Security Act [Pub. L. 107-71] (49 U.S.C. 114 note).

“(3) Any other United States Government program that issues a unique identifier, such as a known traveler number, that the TSA accepts as validating that the individual holding such identifier is a member of a known low-risk population.

“(c) **EXEMPTIONS.**—Nothing in this section shall affect—

“(1) the authority of the Administrator, under section 44927 of title 49, United States Code, to carry out expedited screening for members of the Armed Forces with disabilities or severe injuries or veterans with disabilities or severe injuries; or

“(2) the Honor Flight program under section 44928 of that title.

“(d) **LOW-RISK TRAVELERS.**—Any traveler who is determined by the Administrator to be low risk based on the traveler’s age and who is not a member of a trusted traveler program specified in subsection (b) shall be permitted to utilize TSA PreCheck security screening lanes at Transportation Security Administration checkpoints when traveling on the same reservation as a member of such a program.

“(e) **RISK MODIFIED SCREENING.**—

“(1) **PILOT PROGRAM.**—Not later than 60 days after the date of enactment of this Act [Oct. 5, 2018] and subject to paragraph (2), the Administrator shall commence a pilot program regarding a risk modified screening protocol for lanes other than designated TSA PreCheck security screening lanes at passenger screening checkpoints, in airports of varying categories, to further segment passengers based on risk.

“(2) **ELIGIBILITY.**—Only a low-risk passenger shall be eligible to participate in the risk modified screening pilot program under paragraph (1).

“(3) DEFINITION OF LOW-RISK PASSENGER.—In this subsection, the term ‘low-risk passenger’ means a passenger who—

“(A) meets a risk-based, intelligence-driven criteria prescribed by the Administrator; or

“(B) undergoes a canine enhanced screening upon arrival at the passenger screening checkpoint.

“(4) TERMINATION.—The pilot program shall terminate on the date that is 120 days after the date it commences under paragraph (1).

“(5) BRIEFING.—Not later than 30 days after the termination date under paragraph (4), the Administrator shall brief the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] on the findings of the pilot program, including—

“(A) information relating to the security effectiveness and passenger facilitation effectiveness of the risk modified screening protocol;

“(B) a determination regarding whether the risk modified screening protocol was effective; and

“(C) if the Administrator determined that the protocol was effective, a plan for the deployment of the protocol at as many TSA passenger screening checkpoints as practicable.

“(6) IMPLEMENTATION.—In determining whether deployment of the protocol at a TSA passenger screening checkpoint at an airport is practicable, the Administrator shall consider—

“(A) the level of risk at the airport;

“(B) the available space at the airport;

“(C) passenger throughput levels at the airport;

“(D) the checkpoint configuration at the airport; and

“(E) adequate resources to appropriately serve passengers in TSA PreCheck security screening lanes at the passenger screening checkpoint.

“(f) WORKING GROUP.—

“(1) IN GENERAL.—In carrying out subsection (e), the Administrator shall establish a working group to advise the Administrator on the development of plans for the deployment of the protocol at TSA passenger screening checkpoints, other than designated TSA PreCheck security screening lanes, in the most effective and efficient manner practicable.

“(2) MEMBERS.—The working group shall be comprised of representatives of Category X, I, II, III, and IV airports and air carriers (as the term is defined in section 40102 of title 49, United States Code).

“(3) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the working group established under this subsection.

“(g) BRIEFINGS.—

“(1) IN GENERAL.—The Administrator shall brief, on a biannual basis, the appropriate committees of Congress on the implementation of subsections [sic] (a) until the Administrator certifies that only travelers who are members of trusted traveler programs specified in subsection (b) are permitted to use TSA PreCheck security screening lanes at passenger screening checkpoints.

“(2) CERTIFICATION.—Upon a determination by the Administrator that only travelers who are members of a trusted traveler program specified in subsection (b) are permitted to use TSA PreCheck security screening lanes at checkpoints in accordance with subsection (a), the Administrator shall submit to the appropriate committees of Congress a written certification relating to such determination.

“(h) INSPECTOR GENERAL ASSESSMENTS.—The Inspector General of the Department [of Homeland Security] shall assess and transmit to the appropriate committees of Congress the Administrator’s implementation under subsection (a).

“(i) EXPANSION OF TSA PRECHECK PROGRAM ENROLLMENT.—

“(1) LONG-TERM STRATEGY.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018],

the Administrator shall develop and begin the implementation [of] a long-term strategy to increase enrollment in the TSA PreCheck Program.

“(2) CONSIDERATIONS.—In developing the strategy under paragraph (1), the Administrator shall consider the following:

“(A) Partnering with air carriers (as the term is defined in section 40102 of title 49, United States Code) to incorporate PreCheck Program promotion opportunities in the reservation process described in section 1560.101 of title 49, Code of Federal Regulations;[.]

“(B) Including in the PreCheck Program of [sic] an individual who—

“(i) holds a Secret, Top Secret, or Top Secret/Sensitive Compartmented Information clearance, unless the individual has had the individual’s clearance revoked or did not pass a periodic re-investigation; or

“(ii) is a current, full-time Federal law enforcement officer.

“(C) Providing PreCheck Program enrollment flexibility by offering secure mobile enrollment platforms that facilitate in-person identity verification and application data collection, such as through biometrics.

“(D) Reducing travel time to PreCheck Program enrollment centers for applicants, including—

“(i) by adjusting the locations and schedules of existing PreCheck Program enrollment centers to accommodate demand;

“(ii) by seeking to colocate such enrollment centers with existing facilities that support the issuance of—

“(I) United States passports; and

“(II) Security Identification Display Area credentials (as the term is defined in section 1540.5 of title 49, Code of Federal Regulations) located in public, non-secure areas of airports if no systems of an airport operator are used in support of enrollment activities for such credentials; and

“(iii) by increasing the availability of PreCheck Program enrollment platforms, such as kiosks, tablets, or staffed laptop stations.

“(E) The feasibility of providing financial assistance or other incentives for PreCheck Program enrollment for—

“(i) children who are at least 12 years or older, but less than 18 years old;

“(ii) families consisting of 5 or more immediate family members;

“(iii) private sector entities, including small businesses, to establish PreCheck Program enrollment centers in their respective facilities; and

“(iv) private sector entities, including small business concerns (as the term is described in section 3 of the Small Business Act (15 U.S.C. 632)), to reimburse an employee for the cost of the PreCheck Program application.”

§ 44920. Screening partnership program

(a) IN GENERAL.—An airport operator may submit to the Administrator of the Transportation Security Administration an application to carry out the screening of passengers and property at the airport under section 44901 by personnel of a qualified private screening company pursuant to a contract entered into with the Transportation Security Administration.

(b) APPROVAL OF APPLICATIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of receipt of an application submitted by an airport operator under subsection (a), the Administrator shall approve or deny the application.

(2) STANDARDS.—The Administrator shall approve an application submitted by an airport