

**DEPARTMENT OF TRANSPORTATION****Transportation Security Administration****Assumption of Civil Aviation Security Functions and Responsibilities Under Chapter 449, Title 49, U.S.C.**

**AGENCY:** Transportation Security Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Transportation Security Administration (TSA) announces its assumption of civil aviation security functions and responsibilities, as provided by the Aviation and Transportation Security Act. Effective February 17, 2002, civil aviation security functions and responsibilities currently performed by the Federal Aviation Administration are transferred to the TSA. As required by the Aviation and Transportation Security Act, TSA will federalize all airport security screeners, under a schedule described in this notice.

**FOR FURTHER INFORMATION CONTACT:**

Robert Klothe or Steven Cohen, Office of the General Counsel, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9307 (voice), (202) 366-9318 (fax).

**SUPPLEMENTARY INFORMATION:****Electronic Access**

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at

(202) 512-1661. Internet users may reach the Office of the Federal Register's home page at <http://www.nara.gov/fedreg> and the Government Printing Office's web page at <http://www.access.gpo.gov/nara>.

Internet users can access this document through the docket management system web site, <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

**Background**

In light of the September 11, 2001, terrorist attacks in the United States and the potential for future attacks in this country, Congress enacted the Aviation and Transportation Security Act (ATSA), Public Law 107-71, 115 Stat. 597 (November 19, 2001), which establishes the Transportation Security Administration (TSA) as an operating administration within the Department of Transportation (DOT), headed by the Under Secretary of Transportation for Security (Under Secretary). The Under Secretary took office on January 7, 2002.

Pursuant to ATSA, the TSA is responsible for security in all modes of transportation, including civil aviation under Chapter 449 of title 49, United States Code, related research and development activities, and other transportation security functions exercised by DOT. The TSA is specifically responsible for the day-to-day security screening operations for passenger air transportation and

intrastate air transportation under 49 U.S.C. 44901 and 44935. This responsibility includes hiring, training, testing, and deploying or arranging for Federal security screeners, Federal security personnel, Federal law enforcement officers, and Federal Security Managers at U.S. airports. The TSA must also research, develop and deploy security equipment and programs at U.S. airports, coordinate transportation security intelligence information, coordinate transportation security efforts with Federal and State agencies, and deal with threats to transportation.

Section 101(g) of ATSA, which added section 114 to chapter 1 of title 49, United States Code, requires the Under Secretary to assume civil aviation security functions and responsibilities under chapter 449 of title 49, United States Code, by February 17, 2002, in accordance with a schedule developed by the Secretary, upon consulting with air carriers, foreign air carriers, and the Administrator of the Federal Aviation Administration (FAA). The ATSA also requires the Under Secretary to publish notice of the transfer of such security functions and responsibilities before assuming them from the FAA. This notice announces that the required consultations have taken place and that the transfer of civil aviation security functions is effective February 17, 2002. The following table contains a summary of major completed and planned activities. Additional information is provided in the text following the table.

| Activity                                                                                                                                                                                                       | Date accomplished or expected | Statutory reference within ATSA |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|---------------------------------|
| Establish qualification standards for security screeners to be hired by TSA .....                                                                                                                              | 12/19/01                      | Sec. 111(a)                     |
| Require screening of all checked baggage .....                                                                                                                                                                 | 01/18/02                      | Sec. 110(b)                     |
| Develop a training plan for security screeners .....                                                                                                                                                           | 01/18/02                      | Sec. 111(a)                     |
| Issue notice for collection of passenger fees for aviation security services .....                                                                                                                             | 01/18/02<br>(66 FR 67698)     | Sec. 118(a)                     |
| Assume civil aviation security functions and responsibilities .....                                                                                                                                            | 02/17/02                      | Sec. 101(g)(1)                  |
| Implement Aviation Security Program for Charter Aircraft of 12,500 pounds or larger .....                                                                                                                      | 02/17/02                      | Sec. 132(a)                     |
| Report to Congress on measures adopted and measures rejected under Section 109(a) of .....                                                                                                                     | 05/18/02                      | Sec. 109(b)                     |
| Submit to Congress a plan to screen all checked bags at U.S. airports with automated equipment, including installation and operational dates and schedules.                                                    | 05/18/02                      | Sec. 110(d)(1)                  |
| Recommend to airport operators commercially available means to prevent unauthorized access .....                                                                                                               | 05/18/02                      | Sec. 136                        |
| Establish pilot program for screening by private entities .....                                                                                                                                                | 11/19/02                      | Sec. 108(a)                     |
| Deploy Federal screeners and related personnel at U.S. airports to conduct passenger and property screening.                                                                                                   | 11/19/02                      | Sec. 110(c)                     |
| Report to Congress on screening requirements for passengers and property being carried aboard scheduled aircraft with 60 seats or fewer, with recommendations for any necessary changes in those requirements. | 11/19/02                      | Sec. 110(d)(2)                  |
| Ensure sufficient EDS to screen all checked baggage at U.S. airports .....                                                                                                                                     | 12/31/01                      | Sec. 110(b)                     |

The agency's assumption of civil aviation security functions includes the following elements:

- TSA will enter into contracts with private security screening companies for U.S. airports and directly supervise the

companies' performance of screening services. Currently, air carriers and foreign air carriers contract with private security screening companies to perform these services. TSA will also enter into agreements with air carriers to pay the

costs deemed necessary by the TSA of screening services where they currently perform their own security screening of passengers and property. These agreements with air carriers will also reimburse them for their costs in

providing ground security coordinators to assist TSA in overseeing the work performed by private security screening companies at U.S. airports.

- As noted above, functions related to aviation security will be transferred from FAA to TSA. Personnel, property, records, unexpended fund balances, and related authority will also be transferred to TSA. Existing FAA orders, rules, regulations, grants, and proceedings remain in effect until modified, terminated, superseded, set aside, or revoked.

In consultation with airport and law enforcement authorities, TSA will deploy security personnel at airport secure areas, and shall consider the physical security needs of air traffic control facilities, parked aircraft, servicing equipment, fuel and supplies, adjacent automobile parking and other ground or water transportation mode access areas.

- TSA will provide to Congress its plan to screen all checked bags at U.S. airports, including installation and operational dates and schedules, by May 18, 2002.

- TSA will report to Congress, by May 18, 2002, on ATSA's optional enhanced security measures, which include providing for 911 emergency call capability on passenger aircraft and trains; providing for a uniform ID system for State and local law enforcement officers carrying weapons on aircraft or in secure areas; issuing requirements for a trusted passenger program; establishing alternative security procedures for medical products with the Food and Drug

Administration; using technology for secure plane to ground threat communication; including photo and biometric imprint on all pilot licenses; using voice stress biometric technology for screening potential threats; and using instant air-ground communications. As required by statute, the performance plan, with measurable goals and objectives, will be updated annually thereafter.

- TSA may, in consultation with Congress, establish acceptable performance levels for aviation security, including screening and access control, and provide Congress with an action plan containing measurable goals and milestones by May 18, 2002.

- TSA will assess and recommend to airport operators commercially available means to prevent unauthorized access to secure areas, reviewing effectiveness of biometrics, increased access point surveillance, card/key based access systems, emergency exit monitoring, and elimination of "piggybacking" into secure areas by unauthorized persons by May 18, 2002.

- This six-month assessment will include a 12-month deployment strategy for available technology at Category X airports.

TSA will replace contract security screeners with its own Federally hired, trained, and tested employees on a graduated basis until TSA has deployed sufficient Federal security screeners, as well as Federal Security Managers and Federal law enforcement officers, to screen all passengers and property at required U.S. airports by November 19, 2002. TSA will provide for alcohol and

controlled substance testing, as well as background and criminal history checks, for contract security screeners and TSA employees.

- TSA will assess the existence of dual use items that seem harmless, but may be used as a weapon, maintain a list of such items, and include it in screener training.

- TSA will establish a pilot program for private airport security screening companies by November 19, 2002.

- TSA will deploy sufficient Explosive Detection Systems to screen all checked baggage at U.S. airports, or will screen all checked baggage by alternative means, by December 31, 2002.

- TSA will work with airport operators to strengthen area access control points and consider biometrics/technology deployment to identify individuals.

To offset the costs of providing civil aviation security services TSA has imposed a uniform fee, the September 11th Security Fee, on certain passenger enplanements, beginning February 1, 2002. ATSA authorizes a corresponding fee on air carriers and foreign air carriers based on their calendar year 2000 costs for screening passengers and property.

**Authority:** Pub. L. 107-71, 115 Stat. 597 (2001); and 49 CFR 1.4.

Issued: February 15, 2002.

**John Magaw,**

*Under Secretary of Transportation for Security.*

[FR Doc. 02-4149 Filed 2-15-02; 2:25 pm]

**BILLING CODE 4910-62-P**